

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

MATTHEW DICKSON, on behalf of)
himself and others similarly)
situated)
Plaintiff) CAUSE No. 5:18-cv-182
VS.)
DIRECT ENERGY, LP, TOTAL)
MARKETING CONCEPTS, LLC,)
and SILVERMAN ENTERPRISES, LLC)
Defendants)

ORAL VIDEOTAPED ZOOM DEPOSITION OF
MATTHEW DICKSON
MAY 14, 2020
VOLUME 1

ORAL VIDEOTAPED ZOOM DEPOSITION OF MATTHEW DICKSON,
produced as a witness at the instance of the Defendant
and duly sworn, was taken in the above-styled and
numbered cause on MAY 14, 2020, from 1:11 p.m. to
5:11 p.m., before Jill M. Vaughan, Certified Shorthand
Reporter in and for the State of Texas, reported by
computerized stenotype machine. The witness appeared
remotely at 273 Troubadour, Northfield, Ohio. The
deposition was taken pursuant to the Federal Rules of
Civil Procedure and the provisions stated on the record
or attached hereto.

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Christina Dillard, In-house Direct Energy (Zoom)

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1 THE VIDEOGRAPHER: Good afternoon. We are
2 now going on the record at 1:11 p.m. on March [sic]
3 14, 2020. This is Media Unit No. 1 of the remote
4 video recorded deposition of Matthew Dickson taken by
5 the counsel for the defendant in the matter of Matthew
6 Dickson versus Direct Energy, LP, Total Marketing
7 Concept, LLC and Silverman Enterprises, LLC, which is
8 filed in the United States District Court for the
9 Northern District of Ohio, Case No. 5:18-cv-182. My
10 name is Erik Nelson, and I am the videographer. The
11 court reporter is Jill Vaughan. We both represent
12 Veritext Legal Solutions. Counsel and all present,
13 please state your appearance for the record.
14 MR. YARDLEY: Tom Yardley for Silverman
15 Enterprises.
16 MS. WALSH: Christine Walsh on behalf of
17 Silverman Enterprises.
18 MR. MATTHEWS: My name is Matt Matthews with
19 the firm McDowell Hetherington on behalf of Direct
20 Energy.
21 MR. THOMAS: My name is Will Thomas also
22 with McDowell Hetherington on behalf of Direct Energy.
23 MR. STRAUSS: My name is Samuel Strauss.
24 I'm at the law firm of Turke & Strauss, and I
25 represent Matt Dickson and the plaintiff class.

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1 MR. MATTHEWS: And also participating just
2 by phone is Christina Dillard who is an in-house
3 attorney for Direct Energy.
4 MR. YARDLEY: Mr. Videographer, I heard
5 March 14th in that introduction.
6 THE VIDEOGRAPHER: Excuse me?
7 MR. YARDLEY: I heard March 14th was the
8 date in that introduction.
9 THE VIDEOGRAPHER: Oh, it is May 14th, I
10 apologize. Sorry about that. The court reporter will
11 now swear in the witness.
12 MATTHEW DICKSON
13 having been first duly sworn, testified as follows:
14 EXAMINATION
15 BY MR. MATTHEWS:
16 Q. Good afternoon, Mr. Dickson. Thank you for
17 being here with us today via Zoom. As I said, my name
18 is Matt Matthews and I represent Direct Energy in this
19 lawsuit. You understand that, right?
20 A. I do.
21 Q. Great. This is a bit unusual for -- for me
22 at least and I think for -- for a lot of us to be
23 doing a deposition through this format. So we're all
24 going to do our best to -- to make it work as well as
25 it would if we were there in person. But to -- to

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<p>1 help with that, I'm sure there are going to be some 2 unexpected things that happen during this, which is 3 the -- as I mentioned, the first Zoom deposition that 4 I've taken, but I'll -- we'll all just have to be 5 patient with each other. 6 Have you ever been deposed before 7 in -- in any way? 8 A. No. 9 Q. As I said, I'll go over some basic ground 10 rules for depositions and then maybe some specifics 11 for how it may work through -- through Zoom. But you 12 understand that the testimony that you're giving in 13 this deposition is under oath in the same way and with 14 the same force and consequences that it would be if 15 you were in a courtroom in front of a judge and jury, 16 correct? 17 A. Yes. 18 Q. Great. Even though you're sitting -- are 19 you at home currently? 20 A. I am, yes. 21 Q. Me, too. You're -- you're doing a good job 22 so far of giving verbal responses, which is important 23 so that our court reporter can take it down and -- and 24 have a clean record. And, likewise, you're doing a 25 good job of allowing me to finish my question before</p> <p style="text-align: right;">Page 6</p>	<p>1 break, just let me know and we will take a break. 2 Okay? 3 A. Sounds good. 4 Q. The only qualification I would add to that 5 is if -- if I've asked you a question, please answer 6 the question and then we'll take a break. Okay? 7 A. Yep. 8 Q. Okay. Mr. Dickson, what did you do to 9 prepare for your deposition today? 10 A. I spent roughly three to four hours via 11 phone call with Sam Strauss and Alex Phillips going 12 over some of the documents and just how this would 13 work. 14 Q. Okay. Who is Alex Phillips? 15 A. Alex is another attorney that works with 16 Sam. 17 Q. Got it. That -- that's not a name I know, 18 but I don't mean any disrespect to Alex. 19 Did -- did you do anything else to -- 20 or hang on. Sorry. When -- when did you do that? 21 A. The prep work? 22 Q. Yes. 23 A. Over the last week. 24 Q. Okay. Three to four hours over the last 25 week on the phone with Sam and Alex?</p> <p style="text-align: right;">Page 8</p>
<p>1 you start answering. And I will do my best to allow 2 you to finish your answers before I start asking you 3 another question. But the -- the reason that's 4 important is so our court reporter can take down a 5 clean record where we're not talking over each other. 6 And so even if you -- you know what I'm about to ask, 7 please let me finish it before you -- you start. 8 Okay? 9 A. Okay. 10 Q. If you don't hear me given the technology or 11 I'm just speaking too softly, please let me know and 12 I'm happy to speak up or repeat anything I said. 13 A. Sounds good. 14 Q. And if I ask a question that's unclear, 15 which I'll probably do at some point today, just ask 16 me to clarify it and I'll do my best to ask it in a 17 clearer way. Okay? 18 A. Okay. 19 Q. And if you don't ask me to clarify, I'll 20 assume that you understood. Is that fair enough? 21 A. That is fair. 22 Q. Okay. If -- if you need a break at any 23 point in time or you get interrupted -- you know, I 24 can't guarantee that one of my children won't walk in 25 at some point. If that happens to you and you need a</p> <p style="text-align: right;">Page 7</p>	<p>1 A. Right. 2 Q. Did you review any documents in preparation 3 for the deposition? 4 A. Yes. 5 Q. And did any of them refresh your 6 recollection about certain things? 7 A. Yes. 8 Q. Okay. What -- what were those, what 9 documents were those? 10 A. The complaint and the voicemails. 11 Q. Okay. 12 A. And let's see. I think that's all I can 13 recall at this -- at this moment. 14 Q. Okay. And in what way did those refresh 15 your recollection? 16 A. Well, it's been three years since this 17 started, so I needed a refresher just to remember 18 what -- what actually took place during -- during that 19 time in terms of what -- the content of the voicemails 20 and so on and so forth. 21 Q. Got it. Okay. Mr. Dickson, I'm going to 22 ask you some questions about your background; and I'm 23 not meaning to pry into your personal affairs but just 24 to get a little bit more of a sense about some 25 background details that -- from -- that may be</p> <p style="text-align: right;">Page 9</p>

<p>1 relevant in this case or may not.</p> <p>2 A. Okay.</p> <p>3 Q. Have you ever been the plaintiff in another</p> <p>4 lawsuit?</p> <p>5 A. I have, and I meant to bring this up</p> <p>6 earlier. On the complaint or on the -- what is it,</p> <p>7 the discovery questions, I think I said that I hadn't;</p> <p>8 but part of the reason was because I didn't really</p> <p>9 think that a divorce and a bankruptcy proceeding were</p> <p>10 considered lawsuits. And I also had a settlement that</p> <p>11 came through which I thought happened right before I</p> <p>12 went to court, but apparently it was settled right</p> <p>13 after it was filed. So there are three different</p> <p>14 instances where I have been a plaintiff.</p> <p>15 Q. Got it.</p> <p>16 A. So that's the -- that's -- it's incorrect in</p> <p>17 the -- in the complaint I believe or the discovery</p> <p>18 questions, whichever -- wherever that's listed that I</p> <p>19 don't -- that I have not been, that's incorrect.</p> <p>20 Q. Got it. Thank you for that clarification.</p> <p>21 So there was -- one is the divorce,</p> <p>22 right?</p> <p>23 A. Yes.</p> <p>24 Q. And two is a bankruptcy filing?</p> <p>25 A. Correct.</p> <p style="text-align: right;">Page 10</p>	<p>1 A. Yes. That's what they're called, yes.</p> <p>2 Q. I didn't -- just being clear that it</p> <p>3 wasn't -- it was a TCPA case as opposed to, like, a</p> <p>4 fair debt collection case or something like that?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. And where was that case filed?</p> <p>7 A. In the same place this one is. It's in</p> <p>8 northeast Ohio.</p> <p>9 Q. In Federal court, do you know?</p> <p>10 A. I -- I don't know the answer to that.</p> <p>11 Q. Got you. Do you know who the defendant was?</p> <p>12 A. The -- yes, TruGreen.</p> <p>13 Q. And when was that case filed?</p> <p>14 A. It was ongoing right around the time this</p> <p>15 one actually started. So summer of '17-ish.</p> <p>16 Q. And it was your contention in that case that</p> <p>17 TruGreen had contacted you without your consent?</p> <p>18 A. Correct.</p> <p>19 Q. On your cell phone?</p> <p>20 A. Correct.</p> <p>21 Q. Were those calls voicemails or texts that</p> <p>22 you're saying --</p> <p>23 A. No texts. There were no texts or things,</p> <p>24 but it was variety of calls that I picked up and</p> <p>25 voicemails.</p> <p style="text-align: right;">Page 12</p>
<p>1 Q. That was a personal bankruptcy filing or a</p> <p>2 business filing?</p> <p>3 A. Personal, yes.</p> <p>4 Q. And when was that?</p> <p>5 A. I believe it was filed in the end of 2011.</p> <p>6 Q. In Ohio?</p> <p>7 A. Yes.</p> <p>8 Q. And the divorce proceeding, when was that?</p> <p>9 A. April of 2010.</p> <p>10 Q. And what county are you in there? Cuyahoga?</p> <p>11 A. I live in -- well, right now I live in</p> <p>12 Summit; but the divorce would have taken place in --</p> <p>13 Q. In Cuyahoga?</p> <p>14 A. Yeah. I lived in Cuyahoga at the time.</p> <p>15 Q. Okay. And the -- the third you said was a</p> <p>16 settlement of some kind that you received right after</p> <p>17 filing a lawsuit?</p> <p>18 A. Yeah. And I thought it was -- I thought it</p> <p>19 had happened before it even went to trial.</p> <p>20 Q. Before it was even filed?</p> <p>21 A. Yes.</p> <p>22 Q. And what kind of case was that?</p> <p>23 A. It was similar to this. It was a</p> <p>24 unsolicited phone call harassment.</p> <p>25 Q. A TCPA case?</p> <p style="text-align: right;">Page 11</p>	<p>1 Q. About how many, if you recall?</p> <p>2 A. A lot. Upwards of 30 I'm sure.</p> <p>3 Q. Okay. And you said that case settled</p> <p>4 shortly after it was filed, right?</p> <p>5 A. Yes.</p> <p>6 Q. And what did it settle for?</p> <p>7 MR. STRAUSS: Mr. Dickson, I'm going to --</p> <p>8 the terms of that settlement are confidential and</p> <p>9 you're not able to disclose them.</p> <p>10 A. I was just going to answer as such. Yeah,</p> <p>11 it -- they are confidential terms.</p> <p>12 Q. (By Mr. Matthews) Sure. And, you know, we</p> <p>13 have a protective order and confidentiality</p> <p>14 agreement in place. So if -- if you'd like to</p> <p>15 designate that information as confidential in this</p> <p>16 lawsuit, you are certainly welcome to.</p> <p>17 A. So I prefer not to.</p> <p>18 Q. Okay.</p> <p>19 MR. MATTHEWS: So, Sam, are you instructing</p> <p>20 Mr. Dickson not to answer that question?</p> <p>21 MR. STRAUSS: Yeah, I'm instructing</p> <p>22 Mr. Dickson not to answer that question. I'm aware of</p> <p>23 the protective order in place.</p> <p>24 MR. MATTHEWS: Okay. Confidentiality has</p> <p>25 not been a basis for Direct Energy to withhold</p> <p style="text-align: right;">Page 13</p>

<p>1 information in this lawsuit. So we'll take that up at 2 a different time.</p> <p>3 MR. STRAUSS: (Audio distortion.)</p> <p>4 MR. MATTHEWS: What's that?</p> <p>5 MR. STRAUSS: I said that sounds reasonable.</p> <p>6 Q. (By Mr. Matthews) Mr. Dickson, have you -- 7 aside from lawsuits, have you ever sent any -- in 8 this case there's a letter that you say you sent to 9 Direct Energy about alleged telemarketing 10 violations, right?</p> <p>11 A. Yeah, yes.</p> <p>12 Q. Have you ever sent other letters like that 13 to other companies about alleged telemarketing 14 violations?</p> <p>15 A. If I did, it would have been during the 16 TruGreen one; and I don't recall the -- the details of 17 that.</p> <p>18 Q. Okay. Okay. So the -- the only lawsuit or 19 demand that you have ever made that's resulted in a 20 payment of some kind to you is the TruGreen lawsuit?</p> <p>21 MR. STRAUSS: Object to form. You may 22 answer the question, Mr. Dickson.</p> <p>23 A. That is correct.</p> <p>24 Q. (By Mr. Matthews) Okay. Mr. Dickson, 25 you're an Ohio resident and have been your whole</p> <p style="text-align: right;">Page 14</p>	<p>1 rethink your selection of counsel? I'm kidding. I'm 2 kidding. I went to University of Texas as well, and 3 those games were a lot of fun or one of them at least.</p> <p>4 Q. (By Mr. Matthews) The -- Mr. Dickson, you 5 currently live at 273 Troubadour Drive, right?</p> <p>6 A. Yes.</p> <p>7 Q. And is that in Northfield or Sagamore Hills 8 or is it both?</p> <p>9 A. It's -- it -- it can be both. If you 10 address something to either one of those cities, it 11 will come to my address; but we're technically in 12 Sagamore Hills.</p> <p>13 Q. Okay. And how long have you lived at that 14 address?</p> <p>15 A. It will be four years this fall.</p> <p>16 Q. So fall of 2016 you moved in?</p> <p>17 A. Uh-huh, yes.</p> <p>18 Q. And do you own or rent?</p> <p>19 A. I own.</p> <p>20 Q. Okay. And who lives there with you?</p> <p>21 A. My wife, my daughter and my step-daughter 22 and many pets, too many.</p> <p>23 Q. Mr. Dickson, do you own any other properties 24 currently?</p> <p>25 A. No.</p> <p style="text-align: right;">Page 16</p>
<p>1 life, right?</p> <p>2 A. Yes.</p> <p>3 Q. And what's the highest level of education 4 that you've obtained?</p> <p>5 A. I have a bachelor's degree.</p> <p>6 Q. From where?</p> <p>7 A. From Bowling Green State University.</p> <p>8 Q. And what's your degree in?</p> <p>9 A. Education.</p> <p>10 Q. And what year did you graduate from Bowling 11 Green?</p> <p>12 A. 1998.</p> <p>13 MR. MATTHEWS: You know, I've noted that 14 you're an Ohio state fan, though. What's the deal? 15 Bowling Green doesn't have a strong enough football 16 team?</p> <p>17 THE WITNESS: How did you know that? Did 18 you see it on my arm? No, that's a -- something I 19 grew up with. My parents both went to Ohio State, and 20 they just live and breathe scarlet and gray.</p> <p>21 MR. MATTHEWS: I understand. Mr. Dickson, 22 were you aware that your attorney, Mr. Strauss, went 23 to the University of Texas?</p> <p>24 THE WITNESS: That I was not.</p> <p>25 MR. MATTHEWS: Would -- would you like to</p> <p style="text-align: right;">Page 15</p>	<p>1 Q. Before Troubadour Drive, you lived at 2 6677 -- is it Solon or "Solan" Boulevard?</p> <p>3 A. It's Solon, but that was --</p> <p>4 Q. Solon.</p> <p>5 A. I had a couple of addresses in between those 6 two.</p> <p>7 Q. Okay. Where did you live prior to moving 8 into 2737 Troubadour?</p> <p>9 A. At 2832 Aaron Drive in Medina, Ohio.</p> <p>10 Q. And how long did you live there?</p> <p>11 A. Four years.</p> <p>12 Q. So that would take us back to the fall of 13 2012?</p> <p>14 A. Correct.</p> <p>15 Q. And before 2832 Aaron Drive, where did you 16 live?</p> <p>17 A. I don't recall the actual address. It was a 18 condo in Streetsboro, Ohio. I think it was Maple -- 19 Maplewood Drive and I don't know -- I only lived there 20 for a year. I rented it from a friend. 16-something. 21 I don't recall.</p> <p>22 Q. 16-something Maplewood Drive?</p> <p>23 A. Yeah, I think it was 1645. I don't know, 24 but it was on Maplewood Drive or Maple View -- no. It 25 was Maple View Court. That's what it was.</p> <p style="text-align: right;">Page 17</p>

<p>1 Q. Maple View Court?</p> <p>2 A. Yes.</p> <p>3 Q. And what town was that in?</p> <p>4 A. Streetsboro, Ohio.</p> <p>5 Q. And what -- you say you rented that from a</p> <p>6 friend?</p> <p>7 A. Uh-huh.</p> <p>8 Q. For about a year?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And that takes us back to the fall of</p> <p>11 2011?</p> <p>12 A. Correct.</p> <p>13 Q. And where did you live prior to the Maple</p> <p>14 View Court address?</p> <p>15 A. This would -- I had moved in with my mother</p> <p>16 for around a year and a half and then I'd be at the</p> <p>17 6677 Solon Boulevard address, but the address during</p> <p>18 that time would have been 33355 Linden Drive in Solon,</p> <p>19 Ohio.</p> <p>20 Q. So that's from early 2010 until fall of</p> <p>21 2011?</p> <p>22 A. Thereabouts, yes, yes.</p> <p>23 Q. And where did you live before moving in</p> <p>24 temporarily with your mom?</p> <p>25 A. At the 6677 Solon Road -- or Solon Boulevard</p> <p style="text-align: right;">Page 18</p>	<p>1 A. I did.</p> <p>2 Q. Okay. That and the 237 Troubadour would be</p> <p>3 the properties you owned?</p> <p>4 A. Yes.</p> <p>5 Q. Got it. So understanding that there may</p> <p>6 have been, you know, some time necessary to complete a</p> <p>7 move from one property to the next, your time in each</p> <p>8 of those properties has been more or less separate?</p> <p>9 A. Yes.</p> <p>10 Q. You moved out of one, sold it, moved into</p> <p>11 another?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. You've never maintained a residence</p> <p>14 at two different places at the same time?</p> <p>15 A. No.</p> <p>16 Q. Okay. Thank you. Mr. Dickson, where do you</p> <p>17 currently work?</p> <p>18 A. I work for Everstream Solutions.</p> <p>19 Q. And what does Everstream Solutions do?</p> <p>20 A. We are a business only fiber network</p> <p>21 provider. So we -- we sell to businesses in the</p> <p>22 midwest. It's fiber-based Internet for network</p> <p>23 solutions.</p> <p>24 Q. How long have you worked there?</p> <p>25 A. I started in November. So roughly six</p> <p style="text-align: right;">Page 20</p>
<p>1 address.</p> <p>2 Q. How long did you live at that address?</p> <p>3 A. Six years.</p> <p>4 Q. Moved in there when you got married and</p> <p>5 moved out when you -- you and your wife split up?</p> <p>6 A. Correct.</p> <p>7 Q. Your ex-wife?</p> <p>8 A. Correct.</p> <p>9 Q. So we talked about a few different</p> <p>10 addresses. Did you ever live at any of them at the</p> <p>11 same time? Was there ever any overlap?</p> <p>12 A. I'm not sure -- I'm not understanding the</p> <p>13 question.</p> <p>14 Q. Sure. In other words, did you -- I'll just</p> <p>15 give you an example. So with the 2832 Aaron address</p> <p>16 before you lived -- before you moved into Troubadour,</p> <p>17 was there any overlap between the two? In other</p> <p>18 words, you moved out of the 2832 Aaron address but you</p> <p>19 still owned it for two months or three months before</p> <p>20 you moved in to the Troubadour address?</p> <p>21 A. I don't believe so, but even so I didn't</p> <p>22 own. I wasn't even on the mortgage at 2832 Aaron</p> <p>23 Drive. That was my wife's -- my current wife's house.</p> <p>24 Q. Okay. And then circling back to 6677 Solon</p> <p>25 Boulevard, did you own that property?</p> <p style="text-align: right;">Page 19</p>	<p>1 months.</p> <p>2 Q. And what's your job at Everstream?</p> <p>3 A. I'm a major account executive in sales.</p> <p>4 Q. Do you have to travel for work in -- in</p> <p>5 normal times?</p> <p>6 A. Yeah. Right now, no. And travel-wise, no,</p> <p>7 because it's -- all of my accounts are local; but if</p> <p>8 we have some sort of training or, you know, sales</p> <p>9 kickoff meeting in one of our other markets, I might</p> <p>10 have to, but I have not yet.</p> <p>11 Q. And where did you work before taking the job</p> <p>12 at Everstream Solutions?</p> <p>13 A. I was with Spectrum -- or Charter</p> <p>14 Communications is what they're technically called.</p> <p>15 Q. Is Spectrum the d/b/a, or is it the other</p> <p>16 way around?</p> <p>17 A. The other way around.</p> <p>18 Q. Charter Communications?</p> <p>19 A. Uh-huh, yes.</p> <p>20 Q. And how long did you work at Charter</p> <p>21 Communications?</p> <p>22 A. I had two separate stints there. I started</p> <p>23 originally in February of 2011, and I worked there</p> <p>24 until September of 2014 where I took a job with a</p> <p>25 company called Century Link. And I was at Century</p> <p style="text-align: right;">Page 21</p>

<p>1 Link from 2014 in October through October of 2015 when 2 I took another job back with Spectrum/Charter 3 Communications. And so November of 2015 through 4 November of 2019 I was back at Spectrum. 5 Q. Thank you. And Spectrum is an Internet 6 service provider? 7 A. Yes. And they can -- yes. 8 Q. I'm sorry. Was -- was there something else 9 that you were going to describe about what they do? 10 A. Other than the fact that they -- they can 11 sell -- I didn't; but they have the ability to sell to 12 residential services, too. Whereas Everstream is 13 different, we only do businesses. 14 Q. I remember the name because I believe you 15 said they were your Internet service provider in your 16 discovery responses. They still are, correct? 17 A. They still are, yeah. 18 Q. Okay. So from 2017 up through now, they've 19 been your Internet service provider? 20 A. Correct. 21 Q. What did you -- what was your job at 22 Spectrum during the second stint, the November 2015 to 23 November 2019? 24 A. Same title, major account executive. I was 25 selling to government entities and schools. So it was</p> <p style="text-align: right;">Page 22</p>	<p>1 Q. Did you have a work-issued desk top computer 2 there at the office? 3 A. No, not the second stint. 4 Q. Okay. A work-issued laptop? 5 A. Correct, yes. 6 Q. Is it something that more or less stayed at 7 the office, though, on a dock with your -- with your 8 monitors or did you bring it home? 9 A. I would bring it home. 10 Q. You both worked on it at the office during 11 the day and from time to time would bring it home if 12 you had work to do at home? 13 A. Correct. 14 Q. Did -- did you use that computer for -- for 15 personal use at the time also? 16 A. I suppose occasionally but not really. I 17 have my own computer. 18 Q. And did you have a work-issued iPad or 19 tablet? 20 A. No, no. I had a phone. That's it. 21 Q. You had a work-issued cell phone? 22 A. Correct. 23 Q. And what was -- what kind of phone was it? 24 Was it a iPhone, Android? 25 A. Spectrum gave us Androids.</p> <p style="text-align: right;">Page 24</p>
<p>1 a gov/ed position. 2 Q. Did that position require you to travel for 3 work? 4 A. It depends on what you say travel. I mean, 5 I had a territory that was in western Ohio. So I 6 would have appointments that sometimes could be 2, 7 2 1/2 hours away, yes. 8 Q. Okay. But all within the state of Ohio? 9 A. Correct. 10 Q. And your travel was -- was limited to car 11 travel? 12 A. Correct. 13 Q. You're not getting on a plane and flying all 14 over the country for it. You have a territory that's 15 Ohio, and that requires day trips to other parts of 16 the state from time to time? 17 A. Yes. 18 Q. Where -- where was your office? Where was 19 your home base? 20 A. For Spectrum? 21 Q. Yes, during the second stint. 22 A. I -- I worked out of the Akron, Ohio office. 23 Q. Did you work from home at all? 24 A. Occasionally, not -- wasn't a full-time 25 work-from-home job, though.</p> <p style="text-align: right;">Page 23</p>	<p>1 Q. Do you remember the number of that phone? 2 A. (216)903-0184. 3 Q. And at that time you also had a personal 4 cell phone as well, right? 5 A. Yes. 6 Q. Did you have more than one personal cell 7 phone? 8 A. No. 9 Q. Just the one? 10 A. Correct. 11 Q. And the number on that was (440)409-2229, 12 correct? 13 A. Yes. 14 Q. How long have you had that number as your 15 cell phone number? 16 A. I think 12 years. 17 Q. Okay. Mr. Dickson, can -- can you tell us 18 in your own words what you think this lawsuit is 19 about? 20 A. I think it's about a company who repeatedly 21 made unsolicited phone calls to myself and millions of 22 others, and I would like to have that stop. 23 Q. How many phone calls do you allege that 24 Direct Energy or someone acting on Direct Energy's 25 behalf made to you?</p> <p style="text-align: right;">Page 25</p>

<p>1 A. I believe upwards of 12 or more.</p> <p>2 Q. Okay. Now, in -- in this lawsuit you've</p> <p>3 alleged that -- at least in part that Direct Energy</p> <p>4 sent you ringless voicemail, correct?</p> <p>5 A. I wouldn't necessarily call it ringless.</p> <p>6 What would happen was -- is the phone would ring and</p> <p>7 on occasion I would catch it and pick it up on time,</p> <p>8 but as soon as I picked it up, it would hang up and</p> <p>9 then I would still get a voicemail. Other times it</p> <p>10 would, you know, ring and I -- and then drop and then</p> <p>11 go to voicemail without me touching the phone.</p> <p>12 Q. Okay. And you say on some occasions it</p> <p>13 would -- let me make sure I have that right. It would</p> <p>14 ring -- your phone would ring, this is your own</p> <p>15 personal cell phone and you would answer it and the</p> <p>16 call would drop, but then a voicemail would appear on</p> <p>17 your phone?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And it's your contention that there</p> <p>20 were other occasions where a voicemail would just</p> <p>21 appear on your phone with no ring?</p> <p>22 A. I believe so. I'm not -- I'm not</p> <p>23 100 percent positive on that, but it definitely was an</p> <p>24 odd occurrence in the fact that either my phone</p> <p>25 wouldn't ring or my phone would ring and then the call</p> <p style="text-align: right;">Page 26</p>	<p>1 left by Direct Energy?</p> <p>2 A. Because the script that whoever was leaving</p> <p>3 the voicemail was following was almost verbatim</p> <p>4 without the terms "Direct Energy" to the one that did</p> <p>5 say Direct Energy.</p> <p>6 Q. Got it. Those other three voicemails,</p> <p>7 they -- each one provides a phone number at the end</p> <p>8 that if you're interested in hearing more about</p> <p>9 whatever this person is offering, you can call to</p> <p>10 learn more about it, right?</p> <p>11 A. Yes.</p> <p>12 Q. Did you ever call those numbers to see who</p> <p>13 was leaving you these voicemails?</p> <p>14 A. I believe I -- I did call back one time,</p> <p>15 yes.</p> <p>16 Q. Okay. And what was the company that</p> <p>17 responded to that phone call?</p> <p>18 A. I don't recall if they mentioned a name or</p> <p>19 not.</p> <p>20 Q. Okay. So your -- your belief that the other</p> <p>21 three voicemails that you received and have produced</p> <p>22 in this case came from Direct Energy is based on the</p> <p>23 fact that the -- that the words that the -- that were</p> <p>24 used in the voicemail, the script, as you said, is</p> <p>25 similar to the script of the voicemail that was left</p> <p style="text-align: right;">Page 28</p>
<p>1 would drop yet I would still get a voicemail.</p> <p>2 Q. Okay. And there's -- at least one of those</p> <p>3 calls you produced in this lawsuit says the name</p> <p>4 Direct Energy, right?</p> <p>5 A. Yes. November 3rd, 2017, I believe.</p> <p>6 Q. Right. Were there any others that</p> <p>7 specifically identified Direct Energy as the caller?</p> <p>8 A. In terms of voicemails, I do not believe I</p> <p>9 have any that directly say Direct Energy besides that</p> <p>10 one.</p> <p>11 Q. You've -- you've produced some other</p> <p>12 voicemails in this lawsuit other than the three, I</p> <p>13 believe, that don't identify who is calling you, who</p> <p>14 left the voicemail, right?</p> <p>15 A. There is a name, but not -- not a company</p> <p>16 name, no.</p> <p>17 Q. Good point. Good point. The -- the</p> <p>18 voicemail says an individual's name and in all three</p> <p>19 it's a female and -- but the company itself is not</p> <p>20 identified, correct?</p> <p>21 A. Correct.</p> <p>22 Q. Okay. Is it your contention that those</p> <p>23 voicemails were left by Direct Energy?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And why do you believe those were</p> <p style="text-align: right;">Page 27</p>	<p>1 by someone purporting to be from Direct Energy?</p> <p>2 A. Yes.</p> <p>3 Q. Is there any other reason you believe they</p> <p>4 came from Direct Energy?</p> <p>5 A. You know, other than the content of them</p> <p>6 saying that we're calling about your energy bill,</p> <p>7 yeah, I mean, that's -- it's just -- everything that</p> <p>8 they would say in their voicemails appeared to be</p> <p>9 going down the same lines as something from Direct</p> <p>10 Energy.</p> <p>11 Q. Okay. Did you ever receive any calls from</p> <p>12 Direct Energy in which when you picked up, you heard a</p> <p>13 voice?</p> <p>14 A. No.</p> <p>15 Q. Okay. Every time you picked up on one of</p> <p>16 these calls, the connection would drop, correct?</p> <p>17 A. Yes.</p> <p>18 Q. And every time that happened, did you</p> <p>19 receive a voicemail or only some of the time?</p> <p>20 A. I -- I can't tell you for sure that it was</p> <p>21 every time; but what I can say is that it was such an</p> <p>22 odd occurrence that it seemed like every single time</p> <p>23 that would happen, you know, three minutes later there</p> <p>24 would be a voicemail sitting in my voice mailbox.</p> <p>25 Q. Okay. And it's your testimony that that</p> <p style="text-align: right;">Page 29</p>

<p>1 happened upwards of 12 times from what you believe to</p> <p>2 be Direct Energy?</p> <p>3 A. Yes.</p> <p>4 Q. You may have received other telemarketing</p> <p>5 calls during that time or other voicemails, but your</p> <p>6 testimony is that you received approximately 12 from</p> <p>7 Direct Energy?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. When -- when did you receive the</p> <p>10 first one of those?</p> <p>11 A. Probably August of 2017.</p> <p>12 Q. And you mentioned the November 3rd, 2017,</p> <p>13 call -- well, let me back up.</p> <p>14 When was the -- so the first one that</p> <p>15 you received of the approximately 12 is August of</p> <p>16 2017. When was the last one that you received from</p> <p>17 Direct Energy?</p> <p>18 A. I would say whatever the last date -- the</p> <p>19 latest date on the four that are in the complaint is,</p> <p>20 I think that's going to -- that's probably where it</p> <p>21 ended.</p> <p>22 Q. Got it.</p> <p>23 A. I don't know the date right off the top of</p> <p>24 my head. So...</p> <p>25 Q. Got it. Okay. Let me -- let's -- let's do</p> <p style="text-align: right;">Page 30</p>	<p>1 Q. So your testimony is that the -- the last of</p> <p>2 the messages that you received from what you believe</p> <p>3 to be Direct Energy would have been December 21st of</p> <p>4 2017?</p> <p>5 A. I would say yes, but I would have to take a</p> <p>6 look at my voice mailbox to see if there were ones</p> <p>7 that were after that.</p> <p>8 Q. Do you have voicemails that you have not</p> <p>9 handed over to your attorney?</p> <p>10 A. No. I sent him all of them.</p> <p>11 Q. Okay. And did you save all 12 of the</p> <p>12 voicemails that you say came from Direct Energy?</p> <p>13 A. Yes.</p> <p>14 Q. And did you send all 12 to your attorney?</p> <p>15 A. Yes.</p> <p>16 MR. MATTHEWS: Sam, I'm going to ask that</p> <p>17 those be produced. There's only been four voicemails</p> <p>18 that have been produced in this case, and only one of</p> <p>19 them identifies Direct Energy. So if there are other</p> <p>20 voicemails that Mr. Dickson claims were left on his</p> <p>21 cell phone by Direct Energy, I think we're certainly</p> <p>22 entitled to give them a listen.</p> <p>23 MR. STRAUSS: I -- I'll note that, and we'll</p> <p>24 work on the production.</p> <p>25 MR. MATTHEWS: Okay.</p> <p style="text-align: right;">Page 32</p>
<p>1 this if for no other reason than to see if I can make</p> <p>2 the exhibit share work because you're talking about</p> <p>3 the reference in the complaint to four different</p> <p>4 calls, correct?</p> <p>5 A. Yes.</p> <p>6 (Exhibit 1 marked.)</p> <p>7 Q. (By Mr. Matthews) Okay. So if we can take</p> <p>8 a look at what I marked as Exhibit 1 to your</p> <p>9 deposition.</p> <p>10 MR. MATTHEWS: Erik, I scrolled down to --</p> <p>11 let me see if I can --</p> <p>12 MR. STRAUSS: Matt, I no longer see that.</p> <p>13 MR. MATTHEWS: Oh, because I opened it?</p> <p>14 MR. STRAUSS: Oh, no, I do. Sorry. I</p> <p>15 apologize.</p> <p>16 Q. (By Mr. Matthews) So if we scroll down to</p> <p>17 paragraph 24, which is on, let's see, page 5. Do</p> <p>18 you see that?</p> <p>19 A. I see it.</p> <p>20 Q. Paragraph 24 says that Direct Energy caused</p> <p>21 multiple prerecorded messages/calls to be sent to</p> <p>22 plaintiff's cellular telephone number in 2017</p> <p>23 including September 19, November 3, December 1 and 21.</p> <p>24 Do you see that?</p> <p>25 A. I see it.</p> <p style="text-align: right;">Page 31</p>	<p>1 Q. (By Mr. Matthews) Mr. Dickson, how</p> <p>2 recently did you give the other eight voicemails to</p> <p>3 your attorney?</p> <p>4 A. So the original four would have most likely</p> <p>5 been sent to him during the initial communication.</p> <p>6 And I'm -- the other eight -- after having looked back</p> <p>7 at my voicemail during our deposition prep, I sent</p> <p>8 them over to him -- over to him at that point. I</p> <p>9 don't really understand why I wouldn't have sent them</p> <p>10 in the first place, but I didn't.</p> <p>11 MR. MATTHEWS: Okay. Let's -- let's go off</p> <p>12 the record for a minute.</p> <p>13 THE VIDEOGRAPHER: We're going off the</p> <p>14 record at 1:55.</p> <p>15 (Discussion off the record.)</p> <p>16 (Recess taken)</p> <p>17 THE VIDEOGRAPHER: We're back on the record</p> <p>18 at 2:50.</p> <p>19 MR. MATTHEWS: Okay. Mr. Dickson, thanks</p> <p>20 for your patience during that break and everyone else.</p> <p>21 We took a break because Mr. Dickson's counsel sent</p> <p>22 over the additional voicemails that I believe</p> <p>23 Mr. Dickson was referring to. There are 11 of them</p> <p>24 total that we received.</p> <p>25 Q. (By Mr. Matthews) And, Mr. Dickson, you</p> <p style="text-align: right;">Page 33</p>

<p>1 previously testified that you had sent over 12. Is 2 that still your testimony; or having, you know, 3 refreshed your recollection is it 11 voicemails you 4 sent? 5 A. It's 11. 6 Q. Okay. Are -- is it your contention that 7 there are other voicemails that you received from 8 Direct Energy at any time? 9 MR. YARDLEY: I'll object to the question on 10 the basis that these -- these 11 voicemails were not 11 produced in discovery. And I would object that 12 they -- to the -- to the introduction of the 13 voicemails in this deposition on that basis. You can 14 answer. 15 A. I don't think there would be more. I feel 16 like I would have saved them if there were more. 17 Q. (By Mr. Matthews) You don't recall 18 deleting any voicemails that referred to Direct 19 Energy? 20 A. No. 21 Q. And, likewise, you don't recall deleting any 22 voicemails that referred to your electric supply or 23 your gas supply generally? 24 A. No. 25 Q. Okay. The 11 that you sent to your lawyers Page 34</p>	<p>1 Exhibit 8 is Voicemail 108. Exhibit 9 is Voicemail 2 119. Exhibit 10 is Voicemail 121. Exhibit 11 is 3 Voicemail 123, and Exhibit 12 is Voicemail 127. And 4 let me make sure. Okay. Got it. And I would request 5 that those voicemails be transcribed in connection 6 with this deposition. 7 MR. YARDLEY: I have objected to the use of 8 Exhibits 2 through 12 based on the fact they were not 9 produced in discovery prior to today's date. 10 Q. (By Mr. Matthews) Mr. Dickson, I believe 11 you previously testified that only one of those 12 voicemails that you received identified Direct 13 Energy by name, correct? 14 A. Yes. 15 Q. And that's the voicemail that you received 16 on November the 3rd of 2017? 17 A. Yes. 18 MR. STRAUSS: Can you tie that back to the 19 exhibit by any way? 20 MR. MATTHEWS: It's No. 2. 21 MR. STRAUSS: Thank you. 22 Q. (By Mr. Matthews) So let me -- let me play 23 just that one for you. See if this works. If it 24 creates a horrible screech, we won't do it. But 25 it's very short. That may not work. Bear with me Page 36</p>
<p>1 which they sent over to us now are -- that's the 2 universe of voicemails that you allege you received 3 from Direct Energy or someone acting on Direct 4 Energy's behalf? 5 MR. STRAUSS: Objection, again. Sam, same 6 objection. 7 A. Correct. 8 MR. MATTHEWS: I'm going to enter those 9 voicemails as exhibits in this deposition, and we have 10 forwarded them over to our court reporter. And just 11 for the record, I'll identify each voicemail with an 12 exhibit number. 13 MR. YARDLEY: So for the record, we'd like 14 to have a continuing objection to the use of these 15 non-produced documents in this deposition on the basis 16 that they violate the -- the discovery orders of the 17 case. You can proceed. 18 MR. MATTHEWS: So Exhibit 1 was previously 19 marked. That's the complaint that was filed in this 20 lawsuit. 21 (Exhibits 2 through 12 marked.) 22 MR. MATTHEWS: Exhibit 2 is the Voicemail 23 117. Exhibit 3 is Voicemail 92. Exhibit 4 is 24 Voicemail 99. Exhibit 5 is Voicemail 104. Exhibit 6 25 is Voicemail 105. Exhibit 7 is Voicemail 106. Page 35</p>	<p>1 one second. Okay. I'm going to play Exhibit 2, 2 Voicemail 178. 3 (Recording begins.) 4 MS. BROWN: Hi. This is Nancy Brown with 5 Direct Energy. I have some great information 6 regarding the supply portion of your electric 7 account. Please give me a call back at 8 (440)596-4052 and have a copy of your energy 9 statement with you to review to see if you qualify. 10 (Recording ends.) 11 Q. (By Mr. Matthews) Okay. Mr. Dickson, is 12 Exhibit 2, which we just listened to, the voicemail 13 that you allege that you received on November the 14 3rd, 2017? 15 A. Yes. 16 Q. Okay. And the other ten voicemails that you 17 received, downloaded from your cell phone and produced 18 to your attorneys, which are Exhibits 3 through 12, 19 did not identify Direct Energy by name? 20 A. I do not believe so. 21 Q. And, likewise, they do not identify any 22 energy company by name? 23 A. I do not believe so. 24 Q. Okay. If Exhibit 2 turns out to be the only 25 voicemail that Direct Energy ever sent you, would you Page 37</p>

<p>1 feel different about this lawsuit?</p> <p>2 A. No.</p> <p>3 Q. Just the same?</p> <p>4 A. Yes.</p> <p>5 Q. Why?</p> <p>6 A. Because all the voicemails' content was</p> <p>7 virtually the same and had the same effect on me.</p> <p>8 Q. Right. But if Direct Energy didn't send the</p> <p>9 other ten --</p> <p>10 A. There are --</p> <p>11 Q. -- why would you blame them for that?</p> <p>12 A. There are also millions of others that</p> <p>13 received the same voicemail.</p> <p>14 Q. How do you know that?</p> <p>15 A. Because they are part of the class.</p> <p>16 Q. There's no class yet, but that's your</p> <p>17 contention in this lawsuit. But if -- if you just</p> <p>18 received that one voicemail from Direct Energy and the</p> <p>19 other ten -- I understand that you said that the</p> <p>20 impact on you was the same. But if those other ten</p> <p>21 weren't sent by Direct Energy, you wouldn't blame them</p> <p>22 for those ten, right, obviously?</p> <p>23 MR. STRAUSS: I object to form. You can</p> <p>24 answer the question.</p> <p>25 A. I believe that some -- in some way Direct</p> <p style="text-align: right;">Page 38</p>	<p>1 only alleging that you received one voicemail from</p> <p>2 Direct Energy?</p> <p>3 MR. STRAUSS: Object to the form of the</p> <p>4 question. You may answer it, Mr. Dickson.</p> <p>5 A. Yes.</p> <p>6 Q. (By Mr. Matthews) But you allege you</p> <p>7 received 11 from Direct Energy?</p> <p>8 A. I'm sorry?</p> <p>9 Q. You allege that you received 11 from Direct</p> <p>10 Energy?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Mr. Dickson, just to be sure we tie</p> <p>13 that off and are on the same page about it, all 11 of</p> <p>14 those voicemails were sent to your cell phone with the</p> <p>15 number (440)409-2229, correct?</p> <p>16 A. Yes.</p> <p>17 Q. And that was an iPhone?</p> <p>18 A. Yes.</p> <p>19 Q. Do you still have the same iPhone, or have</p> <p>20 you gotten a new one?</p> <p>21 A. I have upgraded since then, yes.</p> <p>22 Q. Do you still have the iPhone that you had in</p> <p>23 2017?</p> <p>24 A. No.</p> <p>25 Q. Are the voicemails that you produced in this</p> <p style="text-align: right;">Page 40</p>
<p>1 Energy has the fault for that.</p> <p>2 Q. (By Mr. Matthews) Okay. Are you alleging</p> <p>3 that Direct Energy sent you those ten other</p> <p>4 voicemails?</p> <p>5 A. Yes.</p> <p>6 Q. Do you understand that your lawyers in the</p> <p>7 motion class certification have not alleged that?</p> <p>8 A. Yes.</p> <p>9 Q. And do you disagree with the position</p> <p>10 they've taken on that?</p> <p>11 A. No.</p> <p>12 Q. Help me square that. You -- you allege that</p> <p>13 Direct Energy sent you 11 voicemails, right?</p> <p>14 A. Correct.</p> <p>15 Q. But your lawyers only allege that Direct</p> <p>16 Energy sent one, right?</p> <p>17 MR. STRAUSS: Object to the form of the</p> <p>18 question. You may answer it, Mr. Dickson.</p> <p>19 A. That is correct.</p> <p>20 Q. (By Mr. Matthews) Okay. Are you electing</p> <p>21 to waive any sort of damages that you might have</p> <p>22 from those other 11 voicemails?</p> <p>23 A. No.</p> <p>24 Q. Okay. Do you understand that the expert</p> <p>25 that your lawyers have retained in this lawsuit is</p> <p style="text-align: right;">Page 39</p>	<p>1 lawsuit, which are Exhibits 2 through 12, still on the</p> <p>2 iPhone that you currently have?</p> <p>3 A. Yes.</p> <p>4 Q. And circling back to the line of questioning</p> <p>5 I was on before we took our break, the -- the 11</p> <p>6 voicemails that you received you say started in about</p> <p>7 August of 2017, correct?</p> <p>8 A. Correct, yes.</p> <p>9 Q. And ended in December 2017, right?</p> <p>10 A. I believe so, but I have not had a chance to</p> <p>11 look and see the dates on all of the voicemails that</p> <p>12 you've just received and marked as exhibits.</p> <p>13 Q. Okay. Do you have that on your phone right</p> <p>14 now?</p> <p>15 A. Yes. I can look at it.</p> <p>16 Q. Okay.</p> <p>17 MR. YARDLEY: I'm going to object to the</p> <p>18 evidence -- the -- the admission of any evidence from</p> <p>19 that phone. And when I say that phone, I mean the one</p> <p>20 that's now replaced the one that was improperly</p> <p>21 disposed of during the pendency of this lawsuit.</p> <p>22 A. Let me just check a couple here. Okay?</p> <p>23 Okay. It looks like actually December 1st is that</p> <p>24 one. December 12th -- yeah, it looks like, you know,</p> <p>25 December 12th -- if you have one from the 21st, I</p> <p style="text-align: right;">Page 41</p>

<p>1 don't -- I don't know that I see that one on here 2 but -- 3 Q. (By Mr. Matthews) Can you tell me which one 4 you received on December the 12th of 2017? 5 A. December the 12th. The transcript does say, 6 hello, this is Jane Walsh. I have some important 7 information regarding the supply portion of your 8 electric and gas account. Give me a call back at 9 whatever number and have a copy of your gas and 10 electric bill ready to review to see if you qualify. 11 Your reference number is 0H963632. 12 Q. Got it. On your phone, when you're looking 13 at it, does it tell you what the voicemail number is; 14 or is that just something that happens when you access 15 it? 16 A. No. On -- on the voicemail itself, the 17 individual voicemail, it does say unknown; but 18 in the -- in the messages, they give a phone number to 19 call back. 20 Q. Right. 21 A. It's probably not even the number that 22 showed calling, but I would have no idea to whether or 23 not that was what it showed. 24 Q. Sure. I think my question was probably 25 unclear. What -- what I was getting at it is:</p> <p style="text-align: right;">Page 42</p>	<p>1 on your phone that have been introduced as Exhibits 2 2 through 12 as I earlier stated? 3 A. July 13th, 2017. 4 Q. Okay. Great. Mr. Dickson, when did you get 5 your new iPhone? When did you upgrade? 6 A. Probably a year after that, I think in like 7 November or October of 2018. 8 Q. And when did you -- what happened to the old 9 phone? 10 A. It was a trade-in program. So I had to send 11 it back to AT&T. 12 Q. So you got rid of it at the same time, 13 November of 2018? 14 A. Correct. 15 Q. Okay. Mr. Dickson, you said in 2017 you had 16 a -- you had a work cell phone and you had a personal 17 cell phone, which is the -- the personal one being the 18 (440)409-2229 number, correct? 19 A. Yes. 20 Q. Did you ever use your personal cell phone 21 for work? 22 A. No. 23 Q. Did you in 2017 have any separate businesses 24 that you ran aside from your work at Spectrum? 25 A. No.</p> <p style="text-align: right;">Page 44</p>
<p>1 When -- when you emailed it to your lawyers and when 2 Mr. Strauss emailed it to me, the file that I received 3 says voicemail and then there's -- there's a number 4 next to it. So those were the numbers I was calling 5 off in connection with the exhibits. So, you know, 6 117 was the one you received on November the 3rd. 7 When you look at your phone, are you able to see those 8 numbers or it just says unknown? 9 A. Well, it says unknown; but when I go into 10 the info section, it does share a phone number on 11 there. 12 Q. Okay. Can you tell me, December the 12th is 13 the latest date on any of those voicemails, correct? 14 A. That are on my phone, yes. 15 Q. And -- and all 11 of those are on your 16 phone, correct? 17 A. Correct. 18 Q. And those are the only 11 you received, to 19 the best of your knowledge? 20 A. To the best of my knowledge, yes. 21 Q. Okay. It's your testimony you didn't delete 22 any? 23 A. Yes, that is my testimony. 24 Q. Okay. Can you also tell me what -- the 25 earliest date on those voicemails, those 11 that are</p> <p style="text-align: right;">Page 43</p>	<p>1 Q. Have you ever owned a business before? 2 A. My wife and I have an LLC together 3 currently. 4 Q. When did that start? 5 A. Oh, it would have been the end of 2017. 6 Q. And what is the name of that LLC? 7 A. North Coast Renaissance. 8 Q. What does North Coast Renaissance do? 9 A. We created the LLC so that we could renovate 10 homes. 11 Q. Is that something that you do yourself, or 12 do you have employees who work for North Coast 13 Renaissance? 14 A. It's just us, but we've only done one home. 15 So we haven't had the ability to get out much and 16 do -- do anything other than just the first home we 17 did, but it was a fun experience. 18 Q. Fair enough, yes. And when was that? 19 A. We -- the first home we purchased was the -- 20 it closed right before the new year of 2018 and then 21 we sold it, near the end of 2018. 22 Q. What's the phone number for North Coast 23 Renaissance? 24 A. Oh, gosh. I -- I don't even know that we 25 have one.</p> <p style="text-align: right;">Page 45</p>

<p>1 Q. If -- if you were going to do something for 2 North Coast Renaissance, it would just be through your 3 cell phone?</p> <p>4 MR. STRAUSS: Object.</p> <p>5 THE WITNESS: I'm sorry?</p> <p>6 MR. STRAUSS: I said I object to the form of 7 the question. You may answer it.</p> <p>8 A. I think we have a number attached to it when 9 we have to get, like, a Home Depot over-the-counter 10 something, but I don't -- I don't know the number 11 offhand. Never used it.</p> <p>12 Q. (By Mr. Matthews) It's never used. If you 13 have to talk to somebody about North Coast 14 Renaissance, you use your cell phone?</p> <p>15 A. Yes.</p> <p>16 Q. Do you advertise for 17 North Coast Renaissance?</p> <p>18 A. No.</p> <p>19 Q. Does it have a website?</p> <p>20 A. I don't think so.</p> <p>21 Q. Okay. Is it just word of mouth?</p> <p>22 A. Yeah. I mean, ultimately we created it for 23 a liability standpoint. If -- if we were flipping a 24 house in our own names, we didn't want to be 25 personally liable for any damages if something went</p> <p style="text-align: right;">Page 46</p>	<p>1 that, but I was a Beachbody coach, network marketing 2 for five, six months at one point in 2015.</p> <p>3 Q. What is -- what is that? You said a 4 Beachbody?</p> <p>5 A. Yeah, it's -- it's -- you ever heard of P90X 6 or --</p> <p>7 Q. Like a workout --</p> <p>8 A. Like the workout videos, yeah. It's -- I 9 mean -- and I'm sure you're familiar with multilevel 10 marketing. I mean, when you sign up to be a coach 11 through Beachbody, the idea is you get other people 12 underneath you and that's how you generate a stream of 13 income. But it was not something that I was any good 14 at and I just -- I went away from it almost 15 immediately.</p> <p>16 Q. You said you did it for a few months in 17 2015?</p> <p>18 A. Yes.</p> <p>19 Q. How did you market that? How did you try to 20 get other people?</p> <p>21 A. Facebook.</p> <p>22 Q. Okay. Okay. Let's talk about Exhibit 2, 23 the voicemail that you received on November the 3rd, 24 2017, that -- that identified Direct Energy in the 25 message. Do you -- do you remember when you received</p> <p style="text-align: right;">Page 48</p>
<p>1 wrong.</p> <p>2 Q. Okay. In 2017 -- do you sometimes -- what a 3 lot of folks do is sell things online, on Ebay or 4 Craigslist or things like that. Is that something 5 you've ever done?</p> <p>6 A. Yeah, a handful of times. I don't -- I -- I 7 don't even -- I mean, my wife does that stuff. I 8 don't do it, but I -- sometimes I'll do something like 9 on a Facebook group or something, neighborhood group.</p> <p>10 Q. And -- and you put your cell phone down as 11 the contact for that?</p> <p>12 A. No.</p> <p>13 Q. How do people contact you about that if they 14 want to buy something you're selling?</p> <p>15 A. For me it's through the Facebook messenger.</p> <p>16 Q. Did you flip houses or renovate homes before 17 North Cost Renaissance?</p> <p>18 A. No. It was a dream of my wife's and we 19 decided to do it and just hopefully eventually someday 20 we can get to do some more. It was fun.</p> <p>21 Q. Aside from North Coast Renaissance -- 22 whether you formed it as an LLC or a corporation or 23 didn't incorporate it at all, have you ever run your 24 own business aside from North Coast Renaissance?</p> <p>25 A. I don't even know if you want to call it</p> <p style="text-align: right;">Page 47</p>	<p>1 that? I'm probably asking that poorly. I understand 2 that you -- your contention is that the voicemail 3 appeared on your phone on November the 3rd of 2017, 4 right?</p> <p>5 A. Yes.</p> <p>6 Q. I mean, did you realize it immediately; or 7 did it take a while before you realized that voicemail 8 was on your phone?</p> <p>9 A. A few minutes.</p> <p>10 Q. Okay. That -- that's all I'm getting at. 11 Sometimes I get voicemails, and I don't see it for a 12 day or two.</p> <p>13 A. No, I mean, I'm -- I'm pretty picky about 14 having notifications on my phone. I don't like it at 15 all. So if I see something on there, I'm going to go 16 check it and make sure it goes away, the -- the 17 notification. That's it.</p> <p>18 Q. Did -- is it -- do you recall -- you said 19 some of these voicemails that you received the phone 20 rang before the voicemail showed up. With respect to 21 this November 3rd voicemail, did your phone ring 22 before that voicemail appeared on the phone?</p> <p>23 A. I couldn't tell you. I don't -- I don't 24 recall.</p> <p>25 Q. Okay. But in any event, you were aware it</p> <p style="text-align: right;">Page 49</p>

<p>1 was on your phone within a few minutes of it being 2 placed on your phone? 3 A. Correct. 4 Q. Do you remember what day of the week that 5 was? 6 A. I can look in my phone. 7 Q. Yeah. I'm just trying to figure out what -- 8 kind of what was going on in your world that day. Do 9 you remember what time it was? 10 A. No, but I generally tend to remember a lot 11 of these calls happening, like, while I was driving. 12 So most likely during, you know, normal work travel 13 hours. 14 Q. Okay. But you don't know for sure -- I'm 15 just asking about this one at the moment. 16 A. No, I don't -- I don't know for sure when 17 that -- when that call came in. 18 Q. You don't know whether it came in during the 19 workday or later? 20 A. Correct. 21 Q. Or before? 22 A. Correct. 23 Q. And you don't recall what you were doing 24 when you received that November 3rd voicemail? 25 A. No, I don't recall.</p> <p style="text-align: right;">Page 50</p>	<p>1 less all the way through? 2 A. Your statement is correct, yes. 3 Q. Okay. You just can't say whether you did or 4 you didn't with respect to November 3rd? 5 A. Correct. 6 Q. And since you don't remember what you were 7 doing at the time you got the voicemail, I guess you 8 agree with me you can't recall that it interrupted 9 something that was going on in your life at the time? 10 MR. STRAUSS: Object to form. You may 11 answer the question. 12 A. I'm sure it interrupted something. 13 Q. (By Mr. Matthews) In the sense that it took 14 your attention away from whatever it was you were 15 doing for a brief period while you listened to it, 16 right? 17 A. Correct. 18 Q. Okay. What I'm getting at it is you weren't 19 in the middle of a work meeting and you recall running 20 outside because you needed to check it immediately or 21 you were at your daughter's dance recital and it, you 22 know, just -- nothing like that happened that you 23 recall, right? 24 MR. STRAUSS: Object to form. You may 25 answer the question.</p> <p style="text-align: right;">Page 52</p>
<p>1 Q. Do you recall when you received it and 2 listened to it whether you listened to the whole 3 thing? 4 A. I probably did, yeah; but I can't tell -- 5 Q. What -- 6 A. -- I can't say for certain. 7 Q. What -- what I'm getting at is sometimes 8 when I get voicemails and, you know, within two 9 seconds of listening to it I can tell it's not 10 something I want and I delete it. Do you do that 11 sometimes? Obviously you don't delete it, but do you 12 stop listening to it? 13 A. Sometimes I would say, but I think on this 14 one I -- on this one and really all of those, to be 15 honest -- I know we're -- I know we're only talking 16 about November 3rd, but I would listen and -- and say 17 what -- what is this number and -- in my head I'm 18 thinking what is this number and why are they giving 19 me some sort of confirmation code to call back and 20 reference on. 21 Q. Okay. To be sure I've got it right, you 22 don't remember with certainty that you listened to the 23 whole thing, but that's your -- your general practice 24 was -- with respect to these voicemails that related 25 to electric supply was you listened to them more or</p> <p style="text-align: right;">Page 51</p>	<p>1 A. I don't recall. 2 Q. (By Mr. Matthews) How -- just to understand 3 it, with respect to that voicemail and the other ten 4 that you produced in this lawsuit, how did you get 5 it off your phone and to your attorneys? 6 A. There is an icon where you can share the 7 voicemail and what -- you know, however, you need to 8 do it, if you send it through a text or -- or email 9 it. And I selected that icon and emailed it over to 10 him in 11 separate emails. 11 Q. Got it. It's the -- the square that has 12 arrow on the top of it? 13 A. That's the one. 14 Q. Okay. I have an iPhone, too. 15 Mr. Dickson, do you recall any other 16 notifications that were on your phone at the time 17 that the November 3rd voicemail came through? 18 MR. STRAUSS: Object to form. You may 19 answer the question. 20 A. I have no idea. It probably was something, 21 but I don't -- I couldn't tell you for sure. 22 Q. (By Mr. Matthews) Circling back on the -- 23 the Beachbody endeavor, did you get any coaches 24 signed up on that? 25 A. I think I got two.</p> <p style="text-align: right;">Page 53</p>

<p>1 Q. And for communicating with that, you said</p> <p>2 you originally marketed that through Facebook. For</p> <p>3 working with them, once you signed them up, did you</p> <p>4 use your cell phone for that?</p> <p>5 A. No. Primarily -- I don't -- I don't think</p> <p>6 we ever really did cell phone. We just strictly</p> <p>7 through Facebook. It was Facebook marketing.</p> <p>8 Q. You don't think you ever talked to them on</p> <p>9 the phone?</p> <p>10 A. I don't -- no. I -- I think that we when we</p> <p>11 did these kind of things, it was through Zoom.</p> <p>12 Q. Okay. You were using Zoom back then?</p> <p>13 A. It was some form of it, yeah. There was</p> <p>14 some sort of teleconference system that the team that</p> <p>15 I was under and the people that signed up underneath</p> <p>16 me, we would get on a call once a week and kind of</p> <p>17 talk about, you know, where we're going with the</p> <p>18 business and -- yeah, it was teleconference. I don't</p> <p>19 recall if it was Zoom, but it was very similar.</p> <p>20 Q. Whether it was Zoom or FaceTime or whatever,</p> <p>21 I was just -- I was impressed if you were -- had it</p> <p>22 occurred on Zoom. I had never used Zoom in my life</p> <p>23 until today.</p> <p>24 A. I wish it had occurred on Zoom right before</p> <p>25 COVID, I would be a very wealthy man.</p> <p style="text-align: right;">Page 54</p>	<p>1 was a limited plan and not some sort of unlimited.</p> <p>2 Q. (By Mr. Matthews) You didn't have a</p> <p>3 pay-as-you-go account?</p> <p>4 A. No.</p> <p>5 Q. Okay. And you can't recall whether you had</p> <p>6 unlimited minutes or whether there was some limit on</p> <p>7 the number of minutes you had?</p> <p>8 A. Correct, I do not.</p> <p>9 Q. Is that right?</p> <p>10 A. I do not recall for sure.</p> <p>11 Q. And same -- a lot of plans have data as part</p> <p>12 of it as well. Do you recall whether you had</p> <p>13 unlimited data usage or whether there was some limit</p> <p>14 on that?</p> <p>15 A. Well, that's the unlimited part that I was</p> <p>16 talking about.</p> <p>17 Q. Oh, I see.</p> <p>18 A. I don't recall.</p> <p>19 Q. Okay. Let me back up, then. With respect</p> <p>20 to minutes --</p> <p>21 A. I'm sure --</p> <p>22 Q. -- when you were talking about --</p> <p>23 A. I'm sure we had -- I know we had unlimited</p> <p>24 minutes.</p> <p>25 Q. I believe in your -- your interrogatory</p> <p style="text-align: right;">Page 56</p>
<p>1 Q. Mr. Dickson, with respect to your personal</p> <p>2 cell phone, the (440)409-2229 number, in 2017 AT&T was</p> <p>3 your service provider, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And are you the subscriber on that account?</p> <p>6 A. Yes.</p> <p>7 Q. It's in your name?</p> <p>8 A. Yes.</p> <p>9 Q. Do you share the phone with anyone?</p> <p>10 A. The phone, no.</p> <p>11 Q. Do you pay the bill on that phone?</p> <p>12 A. I do.</p> <p>13 Q. Does your employer pay any portion of it?</p> <p>14 A. No, because they give us a work phone. We</p> <p>15 had the option, and I chose to have a work phone</p> <p>16 because I don't like to mix -- I don't want my -- my</p> <p>17 customers knowing my personal number and calling me at</p> <p>18 all hours of the night.</p> <p>19 Q. Do you know what kind of plan you had in</p> <p>20 2017?</p> <p>21 MR. STRAUSS: Object to form. You may</p> <p>22 answer the question.</p> <p>23 A. Oh, at the time -- I don't recall for sure,</p> <p>24 but that was also at a time where we limited our</p> <p>25 children's usage of their phones. So it's possible it</p> <p style="text-align: right;">Page 55</p>	<p>1 responses you said you had two iPads during 2017 also,</p> <p>2 right?</p> <p>3 A. Yes.</p> <p>4 Q. Were they part -- did you have a data plan</p> <p>5 associated with those or -- or no?</p> <p>6 A. No.</p> <p>7 Q. Besides the cell phone, the two iPads, in</p> <p>8 2017 you also had a MacBook and iMac in your house,</p> <p>9 right?</p> <p>10 A. Yes.</p> <p>11 Q. Did you have any other devices in 2017?</p> <p>12 A. That were mine? No.</p> <p>13 Q. Yes. Okay. Your -- your wife had a cell</p> <p>14 phone?</p> <p>15 A. Oh, yes, yeah.</p> <p>16 Q. And your kids, your daughter and your</p> <p>17 step-daughter, each had a cell phone?</p> <p>18 A. Yes.</p> <p>19 MR. MATTHEWS: I'm sorry, Sam, you wanted to</p> <p>20 say something?</p> <p>21 Q. (By Mr. Matthews) Were there any other</p> <p>22 iPads in the home?</p> <p>23 A. No.</p> <p>24 Q. Any other computers, desktop or laptop in</p> <p>25 the home?</p> <p style="text-align: right;">Page 57</p>

1 A. From time to time my work laptop would have
2 been there.
3 Q. But your daughters didn't have their own
4 laptop in 2017?
5 A. No.
6 Q. Or your wife?
7 A. My wife has a work laptop as well.
8 Q. Do you still have all of these devices?
9 A. The iMac, yes. The MacBook did take a
10 kaput, so I have a new one. And the same thing with
11 the iPads, they're both -- you know, died.
12 Q. Do you still have the MacBook and the two
13 iPads?
14 A. Not the MacBook. The iPads I think so, yes.
15 Q. When did you get rid of the MacBook?
16 A. When I upgraded and got a new one. I
17 just -- I asked them what do I do with it, and they
18 said, well, we can take it off your hands and -- and
19 refurb or recycle if we can get it to turn on.
20 Q. And when was that?
21 A. I don't know. Maybe a year ago.
22 Q. And the two iPads you say you think you
23 still have?
24 A. Yes, I think so.
25 Q. Mr. Dickson, in 2017 did you have a landline

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1 number at your house?
2 A. No.
3 Q. What is the number of your work cell?
4 A. Right now or then?
5 Q. In 2017, back in 2017.
6 A. I believe I gave it already. It was
7 (216)903-0184.
8 Q. Thank you. I apologize if I asked you that
9 already.
10 Do you remember what -- did you have
11 a landline at work, like a direct line at work in
12 2017?
13 A. Yes.
14 Q. Do you remember that number?
15 A. I do not. It was (330)457-2 something. I
16 don't remember the last four.
17 Q. Okay. Are you on any do not call lists?
18 A. Not that I'm aware of.
19 Q. I'm going to run through some phone numbers
20 with you and just ask you if you recognize them and if
21 you do whether they belong to you or somebody else
22 that you know.
23 A. Okay.
24 Q. First is (440)248-0183.
25 A. Yes, that is my -- I recognize that number.

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1 Q. What is it?
2 A. That is my mother's former home phone
3 number, which also would have been, I guess, my home
4 phone number during the time when I lived with her.
5 Q. Next one is (440)666-1737.
6 A. That was my cell phone number when I worked
7 for Verizon Wireless.
8 Q. When did you work for Verizon Wireless?
9 A. 2002 through 2008.
10 Q. The next one I'd like to ask you about is
11 (440)666-1700.
12 A. That's my mother's cell phone.
13 Q. The next one that I'd like to ask you about,
14 (330)461-8671.
15 A. I believe that one is my step-daughter's
16 cell phone number.
17 Q. The next one is (440)394-8067.
18 A. That one doesn't ring a bell.
19 Q. Okay. Do you recognize (330)722-1817?
20 A. That would be -- I mean, I don't recognize
21 it off the top of my head; but that sounds like a
22 Medina based number. So perhaps something when I
23 lived in Medina. I don't know.
24 Q. The next one -- we're almost done. The next
25 one is (440)995-4197. Do you recognize that?

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1 A. I rec- -- are you looking at -- you must be
2 looking at some sort of credit report or something
3 because that is -- that is an incorrect number for an
4 old home that I lived in in the early 2000s. I lived
5 with some buddies, and it was (330)995-4197.
6 Q. Got it. And the next one is (440)248-4600.
7 Do you recognize that number?
8 A. No, but it's a Solon exchange. I don't know
9 what that number is, though.
10 Q. It's a -- it's a what?
11 A. Solon exchange. It's -- that's the --
12 that's -- 248 signifies Solon, Ohio.
13 Q. Got it. I understand.
14 MR. MATTHEWS: If -- if you don't mind, can
15 we take a brief bathroom break?
16 MR. STRAUSS: Fine with me.
17 THE VIDEOGRAPHER: We're going off the
18 record at 3:35, and this ends ended Media Unit No. 1.
19 (Recess taken)
20 THE VIDEOGRAPHER: We're back on the record
21 at 3:48, and this begins Media Unit No. 2.
22 Q. (By Mr. Matthews) Okay. Okay.
23 Mr. Dickson, so after you received these voicemails,
24 you didn't switch to Direct Energy, right?
25 A. No.

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<p>1 Q. No. The -- the message didn't give you a 2 great impression of the company? 3 A. No. 4 Q. Safe to say you were completely uninterested 5 in signing up for their service after you received 6 this voicemail? 7 A. That's a fair statement, yes. 8 Q. It didn't make you investigate them and 9 think, well, that's -- that seems like a great 10 company, you know, I'm not interested right now but 11 I'll -- I'll sure keep them in mind? 12 MR. STRAUSS: Object to form. You may 13 answer the question. 14 A. There was no interest, but I wouldn't 15 necessarily say I didn't look to see who this company 16 is that keeps calling me all the time. 17 Q. (By Mr. Matthews) Right. I just -- what 18 I'm getting at is the net result of that wasn't that 19 it improved your impression of the company or your 20 interest in doing business with them in the future? 21 A. Correct. 22 Q. After receiving the voicemail, you weren't 23 ever going to do business with Direct Energy? 24 MR. STRAUSS: Object to the form. You may 25 answer the question.</p> <p style="text-align: right;">Page 62</p>	<p>1 withdrawn is a company called Total Marketing 2 Concepts. Have you heard that name before? 3 A. I'm aware of them, yes. 4 Q. Okay. And do you know how they fit in? 5 MR. STRAUSS: Object to form. 6 A. I believe they're -- I believe they're a 7 third-party vendor that Direct Energy hired to make 8 calls on their behalf. 9 Q. (By Mr. Matthews) Okay. And you 10 understand that TMC claims that you gave consent to 11 be contacted by filling out a form on a website? 12 A. Can you state that again? 13 Q. Sure. I'm not saying that you did it; but 14 I'm saying you understand that in connection with this 15 lawsuit, TMC claimed that you did give consent to be 16 contacted because you filled out a form on a website 17 in which you opted in to receive calls from Direct 18 Energy? 19 A. Yes, I'm aware that they -- they are 20 alleging that. 21 Q. Got it. Give me one second. And have you 22 seen the website -- picture of the website that TMC 23 claims you visited? 24 A. Yes. 25 Q. Sorry. Bear with me one second. I'm trying</p> <p style="text-align: right;">Page 64</p>
<p>1 A. I would agree. 2 Q. (By Mr. Matthews) Do you know who your 3 electric provider was in 2017? 4 A. I'm sure it was Ohio Edison. 5 Q. Have you ever used a retail energy supplier 6 for electricity or natural gas? 7 A. No. 8 Q. You've always been with the default option, 9 the utility? 10 A. Yes. 11 Q. Have you ever shopped around to look for 12 different retail options? 13 A. No. 14 Q. Never have considered switching from the 15 utility? 16 A. No. 17 Q. Would you say that receiving the voicemail 18 hurt your opinion of Direct Energy? 19 MR. STRAUSS: Object to form. You may 20 answer the question. 21 A. I suppose, yeah. 22 Q. (By Mr. Matthews) Okay. Mr. Dickson, 23 you're aware that one of the defendants in this 24 lawsuit who is not on this -- participating in this 25 deposition today and their counsel has since</p> <p style="text-align: right;">Page 63</p>	<p>1 to do this on my iPad. It's not working. Okay. I'm 2 going to mark as Exhibit 13 a screenshot of Paid for 3 Research form. You know what? The technology tricked 4 me, and I marked it as Exhibit 2. Just -- 5 MR. MATTHEWS: Can everyone see the document 6 now? 7 MR. STRAUSS: I just don't see it, no. 8 MR. MATTHEWS: Maybe I... 9 MR. STRAUSS: Oh, I see it now. 10 MR. MATTHEWS: Okay. So I made an error and 11 marked this as Exhibit 2. I would ask that that be 12 corrected before the transcript and exhibits are 13 finalized and make this Paid for Research form be 14 marked instead as Exhibit 13. 15 (Exhibit 13 marked.) 16 Q. (By Mr. Matthews) So, Mr. Dickson, can you 17 see that Paid for Research form on your screen? 18 A. Yep. 19 Q. And you understand that this is a form that 20 TMC claims that you filled out? 21 A. That does look like what I was showed, yes. 22 Q. Okay. Have you ever filled out a form like 23 that -- 24 A. No. 25 Q. -- on a site called Paid for Research?</p> <p style="text-align: right;">Page 65</p>

<p>1 A. No.</p> <p>2 Q. Okay. Do you ever recall visiting a website</p> <p>3 called Paid for Research?</p> <p>4 A. No.</p> <p>5 Q. Do you remember visiting any website that</p> <p>6 claimed to pay for your help with research?</p> <p>7 A. No.</p> <p>8 Q. Setting aside this particular form, the Paid</p> <p>9 for Research, have you ever filled out any forms on</p> <p>10 Facebook or on the Internet like this --</p> <p>11 MR. STRAUSS: Object to form.</p> <p>12 Q. (By Mr. Matthews) -- where you provided</p> <p>13 your personal information?</p> <p>14 A. I don't -- probably. I -- I don't know of</p> <p>15 any specific ones; but, yeah, definitely not that one.</p> <p>16 Q. Got it. But there -- you've completed</p> <p>17 surveys online before?</p> <p>18 A. Sure.</p> <p>19 Q. Okay. You've filled things out on Facebook</p> <p>20 to participate in certain groups or things like that?</p> <p>21 A. Correct.</p> <p>22 Q. Have you maybe entered into a vacation</p> <p>23 giveaway?</p> <p>24 A. Maybe. I don't -- I don't recall the</p> <p>25 content of them.</p> <p style="text-align: right;">Page 66</p>	<p>1 before the -- what TMC claims to have been your --</p> <p>2 your opt-in record, which is in the form of an Excel</p> <p>3 spreadsheet?</p> <p>4 A. I don't recall.</p> <p>5 Q. Okay. Pull it up.</p> <p>6 (Exhibit 14 marked.)</p> <p>7 Q. (By Mr. Matthews) Okay. I'm going to</p> <p>8 introduce as Exhibit 14 an Excel spreadsheet that</p> <p>9 TMC contends was a record of your opt in. Can you</p> <p>10 see that?</p> <p>11 A. I do.</p> <p>12 Q. Okay. Great. Have you -- does this refresh</p> <p>13 your recollection as to whether you've ever seen this</p> <p>14 record before?</p> <p>15 A. I think so because I believe I needed to</p> <p>16 look for IP addresses that might match that, and I was</p> <p>17 unsuccessful at doing so.</p> <p>18 Q. Got it. Okay. So the other information on</p> <p>19 there looks -- let's put in the IT address for -- for</p> <p>20 a moment. The -- the ZIP code, city and state, your</p> <p>21 name and phone number and address are all correct,</p> <p>22 right? That is correct personal information for you?</p> <p>23 A. Yes, it is.</p> <p>24 Q. Okay. So now circling back to the IP</p> <p>25 address, you said you were asked to check for IP</p> <p style="text-align: right;">Page 68</p>
<p>1 Q. Right. Or -- or other -- some other kind of</p> <p>2 sweepstakes where you might win something by filling</p> <p>3 out forms in which you provided some of your personal</p> <p>4 information, you've done that before?</p> <p>5 A. Yes.</p> <p>6 Q. Or filled out forms for gift cards, you ever</p> <p>7 done that, or other free items?</p> <p>8 A. I can't -- I mean, I don't recall; but</p> <p>9 typically if it involved -- you know, if I -- if I'm</p> <p>10 filling something like that out, when it starts to ask</p> <p>11 me crazy questions or asking me for a credit card or</p> <p>12 something, then I just X out of it.</p> <p>13 Q. Fair enough. I -- I don't enter my credit</p> <p>14 card either. But in terms of other personal</p> <p>15 information -- well, I think your answers are clear.</p> <p>16 You just can't recall any -- entering any information</p> <p>17 for gift cards or free items?</p> <p>18 A. No.</p> <p>19 Q. Okay. You filled out forms before online.</p> <p>20 You just don't recall ever doing anything on Paid for</p> <p>21 Research or a form that looked like the one that is</p> <p>22 Exhibit 13?</p> <p>23 A. No, I have not seen that website other than</p> <p>24 what I'm looking at.</p> <p>25 Q. Okay. Terrific. Let me -- have you seen</p> <p style="text-align: right;">Page 67</p>	<p>1 addresses that matched this one, correct?</p> <p>2 A. Yes.</p> <p>3 Q. When were you asked to do it?</p> <p>4 A. No, I wasn't asked to check if it matched</p> <p>5 it.</p> <p>6 MR. STRAUSS: Mr. Dickson, before you</p> <p>7 provide any additional testimony, I would remind you</p> <p>8 that any communication that you had with your counsel</p> <p>9 regarding this case is privileged. So you're welcome</p> <p>10 to answer the question if you can, but you -- I'm</p> <p>11 advising you not to disclose the content of any</p> <p>12 communication you've had with counsel.</p> <p>13 Q. (By Mr. Matthews) That's a fair -- fair</p> <p>14 warning. I'm not trying to ask about what</p> <p>15 specifically your counsel may have told you to do or</p> <p>16 what you reported back, but let's -- let's try to go</p> <p>17 at it this way: At some point in time did you</p> <p>18 endeavor to try to see if the IP address that we see</p> <p>19 on Exhibit 14 was the same as an IP address that</p> <p>20 relates to one of your devices?</p> <p>21 A. Yes. And that's primarily what it was. I</p> <p>22 mean, this is a document that I believe I remember</p> <p>23 being shown, in which case I took it upon myself to</p> <p>24 look at my devices and, you know, go to my IP.com or</p> <p>25 whatever that is. And -- and none of my IP addresses</p> <p style="text-align: right;">Page 69</p>

<p>1 ever matched up with that.</p> <p>2 Q. Okay. Let's -- let's break that down a</p> <p>3 little bit. When did you do that?</p> <p>4 A. After I got this document. I don't -- I</p> <p>5 don't recall when I -- when I saw it for the first</p> <p>6 time.</p> <p>7 Q. Okay. I'm not trying to be difficult, but</p> <p>8 do you remember if it was 2018 or 2019 or was it</p> <p>9 within the last 30 days or so?</p> <p>10 A. Oh, no. I would say it was probably --</p> <p>11 probably summer of '18.</p> <p>12 Q. Okay. So you said about trying to match</p> <p>13 this IP address with some other ones. And what --</p> <p>14 what devices did you check?</p> <p>15 A. All the ones that are provided that you've</p> <p>16 asked about, the two iPads, the MacBook and the --</p> <p>17 the -- my phone.</p> <p>18 Q. The -- your personal cell phone is one?</p> <p>19 A. Yes.</p> <p>20 Q. Correct? Your two iPads that you had in</p> <p>21 2017, correct?</p> <p>22 A. Yes.</p> <p>23 Q. Your --</p> <p>24 A. Oh, and the iMac, too.</p> <p>25 Q. iMac that you had in 2017 --</p> <p style="text-align: right;">Page 70</p>	<p>1 A. That's connected to that device, yes.</p> <p>2 Q. Right. Okay. Did you remember taking any</p> <p>3 vacations in July 2017 or anytime in 2017?</p> <p>4 A. Definitely in 2017. Let me think here. I</p> <p>5 went to Hawaii in March of 2017 and Santa Barbara,</p> <p>6 California, in April of 2017. I don't recall -- I</p> <p>7 don't think there was any other ones. Maybe -- maybe</p> <p>8 Vegas for a weekend in August, but not in July.</p> <p>9 Q. Those are pretty good trips.</p> <p>10 A. It was a good year.</p> <p>11 Q. Okay. All right. Mr. Dickson, Mr. Strauss</p> <p>12 is on the phone. And you mentioned that you helped --</p> <p>13 that you prepped with Mr. Strauss and with -- the</p> <p>14 other name escape me. And Alex I believe at</p> <p>15 Mr. Strauss' firm. Can you tell me the names of any</p> <p>16 of the other lawyers who are representing you in this</p> <p>17 case?</p> <p>18 A. I cannot.</p> <p>19 Q. Okay. Have you ever heard of Matthew McCue?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And who is -- is he representing you?</p> <p>22 A. Well, as you say the names, I -- I remember</p> <p>23 them from reading the complaint. So, yes, that's one</p> <p>24 of the lawyers on there.</p> <p>25 Q. Okay. Have you ever met Mr. McCue or spoken</p> <p style="text-align: right;">Page 72</p>
<p>1 A. And still have.</p> <p>2 Q. And the MacBook that you had in 2017?</p> <p>3 A. Correct.</p> <p>4 Q. Do you know if you checked before you got</p> <p>5 the new cell phone?</p> <p>6 A. Yes, definitely.</p> <p>7 Q. Okay. Did you check any other devices or</p> <p>8 just those five?</p> <p>9 A. I may have checked my work laptop just to be</p> <p>10 safe and just to see if these different IP addresses</p> <p>11 that were popping up were, you know, kind of par for</p> <p>12 the course of any device; but I don't -- I don't</p> <p>13 recall for sure.</p> <p>14 Q. You don't remember for sure whether you</p> <p>15 checked your work laptop?</p> <p>16 A. Right.</p> <p>17 Q. Okay. How did you go about checking the --</p> <p>18 the other -- the five devices that you mentioned? You</p> <p>19 just went to a website to google "my IP address"?</p> <p>20 A. Yeah. I don't know what the web address is,</p> <p>21 like go to myIP.com or something like that, something</p> <p>22 of that nature.</p> <p>23 Q. Okay. But that -- that was the extent of</p> <p>24 the search, was that you went to a website that</p> <p>25 purports to identify an IP address and --</p> <p style="text-align: right;">Page 71</p>	<p>1 to him?</p> <p>2 A. No, I have not.</p> <p>3 Q. Okay. Do you recognize the name</p> <p>4 Anthony Paroinch?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Who is he?</p> <p>7 A. He's also on that -- the list of the</p> <p>8 attorneys representing.</p> <p>9 Q. Have you met or spoken to him?</p> <p>10 A. No.</p> <p>11 Q. What about Edward Broderick?</p> <p>12 A. Yes.</p> <p>13 Q. And who is he?</p> <p>14 A. Same thing, he's representing.</p> <p>15 Q. Okay. What about Brian Murphy?</p> <p>16 A. I would imagine he's also there, but I don't</p> <p>17 recall that name. The other two I did remember.</p> <p>18 Q. That's not a person you've spoken to or met?</p> <p>19 A. No.</p> <p>20 Q. What about Jonathan Misny?</p> <p>21 A. No, I have not spoken to or met him; but I</p> <p>22 would imagine he is also on the -- the complaint.</p> <p>23 Q. Do you have agreements with these lawyers</p> <p>24 about this lawsuit or Direct Energy?</p> <p>25 A. I -- personally, I do not believe so.</p> <p style="text-align: right;">Page 73</p>

<p>1 Q. Do you have agreements with any other 2 lawyers about this lawsuit or Direct Energy? 3 A. Can you clarify what you mean by agreement? 4 Q. I mean it broadly. I mean if you have an 5 understanding all the way up to a formal written 6 agreement with any lawyer besides those I mentioned 7 about this lawsuit or Direct Energy? 8 A. Sam is the only -- the only lawyer that I 9 have any type of agreement with really. 10 Q. Okay. Again, I don't want -- as Mr. Strauss 11 said, I'm not trying to get at the -- the content of 12 your discussions; but was Mr. Strauss the first lawyer 13 that you communicated with about this lawsuit? 14 A. Yes. 15 Q. And how did you find each other? 16 A. Mr. Strauss, he -- he -- let me think here. 17 He reached out to me at some point about the TruGreen 18 situation. 19 Q. About the TruGreen situation? 20 A. Yes. 21 Q. The lawsuit that you had on file with them? 22 A. Yes, yes. 23 Q. Was a different lawyer representing you in 24 connection with the TruGreen lawsuit? 25 A. No.</p> <p style="text-align: right;">Page 74</p>	<p>1 the voicemails that we've been talking about today? 2 A. Yes. 3 Q. Okay. So once you started receiving the 4 voicemails that we've been talking about today, you 5 already had this relationship with Mr. Strauss? 6 A. Yes. 7 Q. Right? Okay. 8 Mr. Dickson, you -- obviously you 9 understand you're the plaintiff in this lawsuit. 10 You're the named plaintiff, correct? 11 A. Yes. 12 Q. And as you told me earlier, you're seeking 13 to represent a whole class of people who, like you, 14 claim to have been contacted by Direct Energy or 15 someone acting on its behalf with voicemail, correct? 16 A. Yes. 17 MR. STRAUSS: Object to form. You can 18 answer the question. 19 Q. (By Mr. Matthews) And you understand that 20 as the named plaintiff, you have a duty to represent 21 their interest adequately, correct? 22 A. Yes. 23 Q. Not just what you think is best for you, but 24 you are required to do what is best for the class. 25 You understand that, correct?</p> <p style="text-align: right;">Page 76</p>
<p>1 Q. Did you file that yourself? 2 A. I filed it with the help of counsel. 3 Q. Okay. Who was that counsel? 4 A. Sam. 5 Q. Okay. 6 A. Maybe I misunderstood your question before 7 that. 8 Q. It was probably a bad question. So did -- 9 help me understand how it came about. Did you fill 10 out a form online about some interest in pursuing a 11 claim? 12 A. As I recall, he sent me a letter regarding 13 TruGreen and I responded to him. 14 Q. Okay. And what I'm trying to get at is how 15 he knew of your existence. Were you -- were you guys 16 friends? 17 A. No. I believe I had posted a review of some 18 sort on the TruGreen Facebook page and he saw it. 19 Q. I see. Okay. And so when you received 20 the -- help me. I'm sure I asked you earlier, and I 21 apologize because I can't remember right now. But 22 when -- when would that have been, early 2017? 23 A. I don't recall. It could have been even 24 earlier than that. 25 Q. Okay. Was it before you started receiving</p> <p style="text-align: right;">Page 75</p>	<p>1 A. Yes. 2 Q. Okay. And you're willing to do that? 3 A. Yes. 4 Q. You understand that if this case goes to 5 trial, you'll have to attend and -- and be there for 6 the duration, correct? 7 A. Yes. 8 Q. Are you willing to do that? 9 A. Yes. 10 Q. And are you willing to assist your attorneys 11 through the end? 12 A. Yes. 13 Q. You understand that despite all that, you 14 may not be compensated any more than any of the other 15 class members, correct? 16 A. Understood. 17 Q. Okay. 18 MR. MATTHEWS: Let's take a break real 19 quick. I just want to look over some notes. I think 20 I'm about done, and I just want to be sure I haven't 21 missed anything that is super important. 22 MR. STRAUSS: That sounds great. How would 23 a 10-minute break work for you? 24 MR. MATTHEWS: I'm sorry? I didn't hear. 25 How long did you say?</p> <p style="text-align: right;">Page 77</p>

<p>1 MR. STRAUSS: Would a 10-minute break --</p> <p>2 does that sound like a good amount of time?</p> <p>3 MR. MATTHEWS: Yes, that's great. If I can</p> <p>4 get it done faster, I'll come back.</p> <p>5 THE VIDEOGRAPHER: We're going off the</p> <p>6 record at 4:14.</p> <p>7 (Recess taken)</p> <p>8 THE VIDEOGRAPHER: We're back on the record</p> <p>9 at 4:24.</p> <p>10 MR. MATTHEWS: Mr. Dickson, thank you for</p> <p>11 your time today and your patience with me. And I will</p> <p>12 pass the witness.</p> <p>13 MR. YARDLEY: I don't know if I'm up next.</p> <p>14 You know, I don't want to assume that I'm allowed to</p> <p>15 ask questions next; but I think I'm going to because</p> <p>16 no one else is talking.</p> <p>17 EXAMINATION</p> <p>18 BY MR. YARDLEY:</p> <p>19 Q. Mr. Dickson, do you know who Silverman</p> <p>20 Enterprises is?</p> <p>21 A. I believe they are also named in the</p> <p>22 complaint as a third-party vendor that Direct Energy</p> <p>23 hired. I could be wrong.</p> <p>24 Q. And how do you know that?</p> <p>25 A. How do I know what?</p> <p style="text-align: right;">Page 78</p>	<p>1 entity that called you?</p> <p>2 A. I do not know which one of those three named</p> <p>3 in the complaint actually called, but they were all as</p> <p>4 a result of Direct Energy.</p> <p>5 Q. Do you know what relationship Silverman</p> <p>6 Enterprises has with Direct Energy?</p> <p>7 MR. STRAUSS: Object to the form. You may</p> <p>8 answer.</p> <p>9 A. I'm not privy to that information, no.</p> <p>10 Q. (By Mr. Yardley) So do you have any</p> <p>11 firsthand knowledge of who Silverman Enterprises is</p> <p>12 outside of what you've read in your own complaint?</p> <p>13 A. No.</p> <p>14 Q. Had you ever heard of Silverman Enterprises'</p> <p>15 name before the complaint was filed originally?</p> <p>16 A. No.</p> <p>17 Q. How did you first learn of the name</p> <p>18 Silverman Enterprises?</p> <p>19 A. I drafted the complaint with the assistance</p> <p>20 of counsel, and that's when I learned of them.</p> <p>21 Q. Well, the original complaint didn't name</p> <p>22 Silverman Enterprises, did it?</p> <p>23 A. No, it did not.</p> <p>24 Q. The first amended complaint didn't name</p> <p>25 Silverman Enterprises, did it?</p> <p style="text-align: right;">Page 80</p>
<p>1 Q. Who Silverman Enterprises is.</p> <p>2 MR. STRAUSS: Object to form. You can</p> <p>3 answer the question.</p> <p>4 A. Because it's named in the complaint.</p> <p>5 Q. (By Mr. Yardley) But if this is your</p> <p>6 complaint, you don't learn from your own complaint</p> <p>7 what's going on. You're supposed to know who they</p> <p>8 are before you file a complaint; is that correct?</p> <p>9 MR. STRAUSS: Object to form. You may</p> <p>10 answer the question.</p> <p>11 A. Yes, I -- I understand that.</p> <p>12 Q. (By Mr. Yardley) Do you know what role</p> <p>13 Silverman Enterprises is alleged to have played in</p> <p>14 this case?</p> <p>15 A. To my knowledge, they were hired by Direct</p> <p>16 Energy to make the calls to people within this class.</p> <p>17 Q. So it's your understanding that Silverman</p> <p>18 Enterprises is a call center?</p> <p>19 MR. STRAUSS: Object to form. You may</p> <p>20 answer the question.</p> <p>21 A. I don't know if it's a call center, but</p> <p>22 it -- it's a company that will make calls on a</p> <p>23 company's behalf.</p> <p>24 Q. (By Mr. Yardley) And is it your</p> <p>25 understanding that Silverman Enterprises is the</p> <p style="text-align: right;">Page 79</p>	<p>1 A. No, it did not.</p> <p>2 Q. And after the first amended complaint was</p> <p>3 filed, when did you first hear about Silverman</p> <p>4 Enterprises?</p> <p>5 A. On receiving the revised complaint, the</p> <p>6 third one.</p> <p>7 Q. So your lawyers sent you a document which</p> <p>8 explained what Silverman Enterprises was?</p> <p>9 A. No. They sent me the revised complaint that</p> <p>10 had more information included, which was Silverman</p> <p>11 Enterprises.</p> <p>12 Q. When you say the revised complaint, do you</p> <p>13 mean the first amended complaint or the second amended</p> <p>14 complaint?</p> <p>15 A. The second one.</p> <p>16 Q. So the first time you ever heard the name</p> <p>17 Silverman Enterprises was when you read it in the</p> <p>18 second amended complaint; is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. And was that filed at that time?</p> <p>21 A. I do not know.</p> <p>22 Q. You don't know whether the first amended</p> <p>23 complaint was filed at the time when you first</p> <p>24 reviewed the name Silverman Enterprises?</p> <p>25 A. I would -- I would venture to say that I</p> <p style="text-align: right;">Page 81</p>

<p>1 received the complaint and then it was filed because I 2 believe I would have had to have signed it. 3 Q. So at the time you signed -- or at least 4 signed off on the second amended complaint, the only 5 information you had about Silverman Enterprises came 6 from your attorney; is that correct? 7 A. Correct. 8 Q. Did you ever do any independent research 9 about Silverman Enterprises? 10 A. No. 11 Q. Do you have an independent knowledge of what 12 Silverman Enterprises does or what role it had with 13 respect to your case outside of what you've been told 14 by your attorneys? 15 MR. STRAUSS: Object to form. You may 16 answer. 17 A. No, I do not. 18 Q. (By Mr. Yardley) And I think, if I -- if I 19 characterize your testimony correct, you're saying 20 that Silverman Enterprises was the entity that left 21 a voicemail on your message machine; is that 22 correct? 23 MR. STRAUSS: Object to form. You may -- 24 Q. (By Mr. Yardley) By message machine, I 25 mean your phone.</p> <p style="text-align: right;">Page 82</p>	<p>1 involvement is that they were the entity that left a 2 ringless voice -- voicemail on your phone? 3 A. My understanding -- 4 MR. STRAUSS: Objection, form. You may 5 answer. 6 A. My understanding is that they are one of the 7 companies that Direct Energy hired to make these 8 calls. 9 Q. (By Mr. Yardley) So it's your position 10 that Direct Energy hired Silverman Enterprises, 11 correct? 12 A. Yes. 13 Q. Okay. At the time -- the 11 calls 14 mentioned -- referenced in your second amended 15 complaint run from July 2017 to December 2017; is that 16 correct? 17 A. That sounds correct, yes. 18 Q. In July of 2017 do you remember receiving 19 the first message on your machine that you've 20 identified in the complaint? 21 A. On the phone? 22 Q. Yes. 23 A. Yes. I mean, I -- do I remember receiving 24 it, like, explicitly, no; but I have record of it on 25 my phone.</p> <p style="text-align: right;">Page 84</p>
<p>1 MR. STRAUSS: Object -- same objection. You 2 may answer. 3 A. That is my understanding, yes. 4 Q. (By Mr. Yardley) So you -- you've alleged 5 in your complaint that there was 11 instances in 6 which someone called you; is that correct? 7 A. Yes. 8 MR. STRAUSS: Objection, form. You may 9 answer. 10 A. Yes. 11 Q. (By Mr. Yardley) You testified earlier 12 today that you believed that it was Direct Energy 13 who called you; is that correct? 14 A. I believe Direct Energy is the -- the main 15 source of these calls. 16 Q. Do you have any knowledge of any contract or 17 arrangement between Silverman Enterprises and Direct 18 Energy? 19 A. Independent knowledge, no; but they wouldn't 20 be named in this complaint if there wasn't some sort 21 of connection. 22 Q. Well, you named them; isn't that correct? 23 You're the plaintiff, correct? 24 A. Yes. 25 Q. And the extent of your knowledge of their</p> <p style="text-align: right;">Page 83</p>	<p>1 Q. At the time you received it, did you have an 2 understanding of whether the leaving of that message 3 on your phone violated the TCPA? 4 MR. STRAUSS: Object to form. You may 5 answer the question. 6 Q. (By Mr. Yardley) You know what the TCPA 7 is, don't you? 8 A. Yes. 9 Q. What is it? 10 A. It's the -- I don't know the -- what the 11 acronym stands for, but it is the -- it's 12 telemarketing calls to people unsolicited. 13 Q. You're referring to the Telephone Consumer 14 Protection Act of 1991, correct? 15 A. Yes. 16 Q. So when you left -- when that phone message 17 was left on your telephone in July of 2017, did you 18 have an opinion or a position as to whether that act 19 violated the TCPA? 20 MR. STRAUSS: Object to form. You may 21 answer the question. 22 A. I would say yes, I had an opinion that it -- 23 I don't know why -- why they were calling me. I had 24 no reason for them to call me. 25 Q. (By Mr. Yardley) At the time you received</p> <p style="text-align: right;">Page 85</p>

<p>1 that first call, what was your knowledge of the 2 TCPA? 3 A. Probably not much. Nothing I would say. 4 Q. So you don't know whether the TCPA, in fact, 5 prohibits placing a ringless voicemail on your phone? 6 MR. STRAUSS: Object to form. You may 7 answer the question. 8 A. I would not have knowledge of that, no. 9 Q. (By Mr. Yardley) And you never researched 10 that; is that correct? 11 A. No. 12 Q. Well, what caused you to -- to file a 13 lawsuit if you don't have any position as to whether 14 placing a ringless voicemail on a phone violates the 15 TCPA? 16 A. So the reason I reached out in the first 17 place to Sam is because I had the first -- that prior 18 relationship. But the main reason that I reached out 19 to him directly was because I had never had a 20 situation where, you know, a telephone marketer calls, 21 it rings and then you pick up and then it hangs up and 22 then it still leaves a voicemail. I had never heard 23 of that, and I thought that that was -- you know, 24 it -- it was annoying and it was an invasion of my 25 privacy, to be honest.</p> <p style="text-align: right;">Page 86</p>	<p>1 A. 2017, I'm sorry. 2 Q. So in August of 2017 you believed you might 3 have a lawsuit against someone. Did you know who? 4 MR. STRAUSS: Object to form. You may 5 answer the question. 6 A. No, I did not at the time. 7 Q. (By Mr. Yardley) When did you first learn 8 of the name Direct Energy? 9 A. When I -- through counsel. 10 Q. I just said when. 11 A. Oh, when? 12 Q. Yes. Was it during the period in which the 13 ringless voicemails were being left on your phone? 14 A. Well, definitely during that time because 15 November 3rd, the name showed up on the voicemail. 16 But I don't recall whether or not my -- my 17 conversations with counsel told me about that name 18 prior to that November 3rd date. 19 Q. But you were having ongoing conversations 20 with counsel during the November -- or let's say 21 during the second half of 2017 about filing a possible 22 TCPA claim; is that correct? 23 A. Yes. 24 Q. Now, you said that you swapped out your 25 phone in 2018; is that correct?</p> <p style="text-align: right;">Page 88</p>
<p>1 Q. Did you feel at that point that it violated 2 the TCPA? 3 MR. STRAUSS: Object to form. 4 Q. (By Mr. Yardley) When I say "it," I mean 5 your ringless voice message. 6 A. Because I had not much knowledge of the TCPA 7 at the time, I would say I didn't know if it violated 8 it; but I knew that it was -- it was odd and I needed 9 to investigate it legally. 10 Q. Did you -- at the time you received the 11 first voicemail, did you consider filing a lawsuit 12 based on that? 13 A. The very first call? 14 Q. Yes. 15 A. No, not on -- not on the first call. 16 Q. When did you first -- when did the first 17 thought come to your mind that you might file a 18 lawsuit based on one of the 11 ringless voicemails -- 19 ringless voicemails that you allege was placed on your 20 phone? 21 A. Probably about three or four in. 22 Q. And when would that have been, how far in 23 time? 24 A. Most likely sometime in August. 25 Q. And that would be August of what year?</p> <p style="text-align: right;">Page 87</p>	<p>1 A. I did. 2 Q. What month would that have been? 3 A. I would say October of 2018. 4 Q. So approximately one year after you first 5 thought about filing a TCPA claim, you agreed to give 6 your cell phone to AT&T in exchange for a new cell 7 phone? 8 A. I did. 9 Q. Did it ever occur to you that that old cell 10 phone would be evidence in any TCPA case you might 11 file? 12 A. No. 13 Q. Never occurred to you at all? 14 A. No, because the voicemails transfer to the 15 new phone. 16 Q. Who transferred those voicemails to the new 17 phone? 18 A. It automatically happens based on the phone 19 number and the voicemail account. 20 Q. Are you saying that -- that the phone 21 that -- which is the subject of this lawsuit which you 22 no longer have was backed up to AT&T's cloud system? 23 MR. STRAUSS: Object to form. You may 24 answer the question. 25 A. I'm not sure if it's in a cloud system or</p> <p style="text-align: right;">Page 89</p>

<p>1 not. That would -- I'm not -- I'm not an expert when 2 it comes to that. But I do know that -- that as long 3 as that phone number is with AT&T, any voicemails that 4 are left on their visual voicemail system will 5 transfer to any new device that you upgrade to. 6 Q. (By Mr. Yardley) How do you know that? 7 A. Well, one, because I formerly worked for 8 AT&T; but, two, because it's happened every time I've 9 upgraded a phone. 10 Q. Do you have an iCloud account? 11 A. iCloud, yes. 12 Q. What's the -- what's the email address that 13 your iCloud account is tied to? 14 A. My regular email. If you don't have it, 15 it's my name 27@yahoo.com. 16 Q. Can you spell out that whole email address? 17 A. I can. It's 18 M-a-t-t-d-i-c-k-s-o-n-2-7@yahoo, y-a-h-o-o, .com. 19 Q. Is your real name Matthew? 20 A. It is, yes. 21 Q. So do you back up the -- did you back up the 22 phone you had in 2017 to the mattedickson27@yahoo.com 23 iCloud account? 24 A. I did. 25 Q. You automatically did that?</p> <p style="text-align: right;">Page 90</p>	<p>1 wanted to wait until everything was loaded on the 2 phone. 3 Q. And you didn't wait that long because it 4 takes hours to do that; is that correct? 5 A. Sometimes it does. So, yeah, I think I did 6 leave. I -- I left once my texts and my -- and my 7 emails accounts were set up and everything. The apps 8 took forever to download. 9 Q. So my point -- 10 MR. STRAUSS: Try not to speak over counsel. 11 They're making a record. So please let counsel ask 12 his question in its entirety before you begin your 13 response. 14 THE WITNESS: Okay. 15 Q. (By Mr. Yardley) And you still maintain 16 that Apple -- that mattedickson27@yahoo.com iCloud 17 account; is that correct? 18 A. I do. 19 Q. How long have you had that iCloud account? 20 A. Ten or 11 years. 21 Q. I was going to say it's a Yahoo account, 22 that kind of tells you something. 23 A. Oh, the Yahoo. You -- well, yeah, but you 24 said iCloud. 25 Q. Okay. So it's a -- it originally started as</p> <p style="text-align: right;">Page 92</p>
<p>1 A. I had it set so that it would automatically 2 do it every night; and prior to doing the upgrade, I 3 made sure that it was done so that I could access 4 everything that I had on the previous phone. 5 Q. So you didn't rely on AT&T's server to do 6 that; is that correct? 7 MR. STRAUSS: Object to form. You may 8 answer the question. 9 A. I don't know what I relied on. I just 10 relied on the fact that I knew that if I did a backup, 11 all my information would still transfer to the new 12 phone. 13 Q. (By Mr. Yardley) Remember when you got 14 that new phone? 15 A. Uh-huh, yes. 16 Q. Did you go to the store to get it? When I 17 say the store, I mean the AT&T store. 18 A. No. I got that at the Apple store. 19 Q. So you bought it on the Apple store. Did 20 Apple transfer all of your old data to your new phone? 21 A. No, because it accesses it through the 22 cloud. 23 Q. So you did that yourself; is that correct? 24 A. They -- they initiated it. But once it was 25 initiated, then I was free to leave the store unless I</p> <p style="text-align: right;">Page 91</p>	<p>1 a Yahoo account, correct? 2 MR. STRAUSS: Object to form. You may 3 answer the question. 4 A. No. It's -- I mean, when you create an 5 iCloud account, you need to create a user ID with an 6 email or a user name. And when I created my iCloud 7 account 10 or 11 years ago, I used my personal email 8 address, mattedickson27@yahoo.com. 9 Q. (By Mr. Yardley) Okay. So there's 10 actually two different accounts. There's a 11 mattedickson27@yahoo.com account, correct, that 12 predated your iCloud account, correct? 13 A. Yes. 14 Q. And then there's an iCloud account with 15 mattedickson27@yahoo.com. It has nothing to do with 16 Yahoo. It just uses the Yahoo word in the name, 17 correct? 18 A. Yes. 19 Q. And that iCloud account probably has a 20 mattedickson27@icloud.com email address also, doesn't 21 it? 22 A. I don't know what the email address would 23 be, but it probably does have some iCloud email 24 address. 25 Q. In addition to the mattedickson27@yahoo.com</p> <p style="text-align: right;">Page 93</p>

<p>1 email address, do you have any other personal email 2 addresses? 3 A. Yes. 4 Q. What are they? 5 A. The same user handle, 6 mattdickson27@gmail.com. 7 Q. And is that the only other one you have? 8 A. Yes. 9 Q. To the extent that we can count them, you 10 have mattdickson27@gmail, mattdickson27@yahoo and 11 probably a mattdickson27@icloud; is that correct? 12 MR. STRAUSS: Object to form. You may 13 answer it. 14 A. Most likely, yes, on the iCloud one; but the 15 other two for sure. 16 Q. (By Mr. Yardley) Did you ever opt in to 17 allow any entity to contact you? 18 MR. STRAUSS: Object to form. You may 19 answer it. 20 A. Not that I'm aware of. 21 Q. (By Mr. Yardley) So you've never allowed 22 any entity to contact you that you regularly do 23 business with? 24 MR. STRAUSS: Object to form. You may 25 answer it.</p> <p style="text-align: right;">Page 94</p>	<p>1 Q. And when you allow somebody to do that and 2 you give them an email address, did you give them -- 3 did you give them mattdickson27@yahoo.com or 4 mattdickson27@gmail.com? 5 A. Generally speaking -- sorry. Generally 6 speaking, I will give them the gmail one because I use 7 it less. 8 Q. That would be your sort of junk email 9 account; is that correct? 10 A. Correct. 11 Q. And the mattdickson27 is reserved for 12 personal matters that don't involve junk email? 13 A. Correct. 14 Q. So if we went to the mattdickson27@gmail 15 account you could see everybody that you opted into 16 because they would have emailed you there; is that 17 correct? 18 MR. STRAUSS: Object to the form. 19 A. Probably -- probably, yes. 20 Q. (By Mr. Yardley) And the ones you can 21 remember are Home Depot, Kohl's. Any others? 22 A. Best Buy, Groupon. That's about it. Those 23 are the ones that I generally tend to have to delete 24 every morning when I check my email. 25 Q. Ohio State University wouldn't be one of</p> <p style="text-align: right;">Page 96</p>
<p>1 A. I would say if I do -- I mean, no. I mean, 2 I get emails from like Home Depot and Kohl's and 3 places like that. 4 Q. (By Mr. Yardley) That's because you have an 5 account at Home Depot, correct? 6 A. What's that? 7 Q. That's because you have an account at Home 8 Depot, correct? 9 A. Correct. 10 Q. And when you applied for that account at 11 Home Depot, you opted in to have them send you emails, 12 correct? 13 MR. STRAUSS: Object to form. You may 14 answer. 15 A. Probably, yes. 16 Q. (By Mr. Yardley) So do you know what other 17 entities that you allowed to send you communications 18 other than Home Depot? 19 MR. STRAUSS: Object to form. You can 20 answer that. 21 A. I'm sure there's a handful. I don't know 22 all of them offhand. 23 Q. (By Mr. Yardley) Do you know any of them 24 offhand? 25 A. Home Depot, Kohl's, Best Buy.</p> <p style="text-align: right;">Page 95</p>	<p>1 those? 2 A. Maybe. I don't know. Like the -- like 3 probably a fan site maybe offering goods. 4 Q. Okay. So I think we've -- we've covered the 5 email addresses. Now, I think your -- you produced 6 ten new voicemails today; is that correct? 7 MR. STRAUSS: Object to form. 8 Q. (By Mr. Yardley) When I say you, your 9 counsel has done that, correct? 10 A. I believe that we produced seven new ones 11 other than the four that were in the second amended 12 complaint. 13 Q. Okay. And when did you find those seven 14 voicemails? 15 A. Through deposition prep when -- when 16 discussing and I saw -- and I rereviewed the 17 complaint. 18 MR. STRAUSS: Mr. Dickson, I'm going to 19 remind you not to discuss anything that you discussed 20 with counsel. You can certainly answer the question 21 as to when you found them, but I want to remind you 22 any conversations you had with counsel either by phone 23 or via email or in any other form is privileged and I 24 would advise you not to answer. 25 A. Okay. The -- just in reviewing the -- the</p> <p style="text-align: right;">Page 97</p>

<p>1 complaint, I noticed that there was only four on 2 there; and I was, like, it didn't seem right because I 3 knew that there was more. And I -- I went back into 4 my voicemail and found the seven, so I sent them over. 5 Q. (By Mr. Yardley) Did you ever respond to 6 any discovery in this case? 7 A. To what? 8 Q. Any discovery. 9 A. Like the discovery questions? 10 Q. Yes. 11 A. Yes. 12 Q. And did they -- did any of those discovery 13 questions ask you whether there were any other 14 instances where voicemails had been placed on your 15 phone that might relate to this lawsuit? 16 MR. STRAUSS: Objection. 17 A. I don't recall. 18 Q. (By Mr. Yardley) You don't recall? 19 A. I don't recall if one -- if that was one of 20 the questions. 21 Q. Do you ever recall searching your phone for 22 voicemails? 23 A. Yes, I -- I looked at them over the last 24 week and a half or so. 25 Q. All right. So over the last week and a half</p> <p style="text-align: right;">Page 98</p>	<p>1 Q. (By Mr. Yardley) You're forwarding an 2 electronic medium. Do you understand that? 3 A. Uh-huh. 4 Q. How did you know how to do that? 5 A. Because it's just something you learn when 6 you're utilizing the phone. 7 Q. Well, that icon is not -- is that stored on 8 your phone when you swipe down from the upper right? 9 MR. STRAUSS: Object to form. You can 10 answer the question. 11 A. No. It shows up when you actually click on 12 the voicemail. 13 Q. (By Mr. Yardley) It gives you a methodology 14 for sending it; is that correct? 15 A. Correct. 16 Q. Did you send it email or text message? 17 A. Email. 18 Q. And you were going through those voicemails 19 over the last ten days; is that correct? 20 A. Reviewing them, yes. 21 Q. And you found new ones, correct? 22 A. Well, they weren't new; but, I mean, new to 23 the complaint, yes. 24 Q. So how did you identify those as emails that 25 related to this complaint -- excuse me, voicemails</p> <p style="text-align: right;">Page 100</p>
<p>1 you looked at your phone to see if there were 2 voicemails there; is that correct? 3 A. Yes. 4 Q. When did you do that prior to a week and a 5 half ago, if ever? 6 A. Well, certainly when -- when my initiated -- 7 my initiated -- when I initiated the conversations 8 three years ago with counsel, anytime I would get one, 9 I would make sure that it saved. So throughout the 10 course of a couple years. 11 Q. Are you saying that you were forwarding 12 these ringless voicemails in real time to your 13 attorneys? 14 A. Like not real time but within -- within a 15 couple of days I would say. 16 Q. And who did you forward them to? 17 A. Mr. Strauss. 18 Q. How would you do that? 19 A. The same way I did it earlier last week, 20 which is clicking on the icon and sharing it by email. 21 Q. Had you ever done that before with other 22 electronic medium? 23 MR. STRAUSS: Object to form. You may 24 answer the question. 25 A. I'm not sure I understand the question.</p> <p style="text-align: right;">Page 99</p>	<p>1 that related to this complaint? 2 A. Because they all utilized the same general 3 format in the message that they left. 4 Q. Did the word "Silverman" come up in any of 5 those messages? 6 A. Silverman? 7 Q. Yes. 8 A. No. 9 Q. Do you recall responding yes to a text when 10 asked for your consent to be contacted? 11 MR. STRAUSS: Object to form. You may 12 answer. 13 A. To be contacted, no. 14 Q. (By Mr. Yardley) So Home -- you've never 15 given Home Depot the consent to contact you, 16 correct? 17 A. Via text, no. 18 MR. STRAUSS: Object to form. You can 19 answer. 20 Q. (By Mr. Yardley) Do you know if the 21 consent that you gave to Home Depot, that it didn't 22 include text message? 23 A. I don't recall. 24 Q. Do you know whether the consent you gave to 25 Kohl's included text messages?</p> <p style="text-align: right;">Page 101</p>

<p>1 A. I don't recall; and if they -- if they do, 2 I -- I immediately respond with an opt out. 3 Q. Well, you certainly know about Best Buy 4 because they -- they text messages all the time, don't 5 they? 6 A. Not to me. 7 Q. You don't get text messages from Best Buy 8 that says flash sale or anything like that? 9 A. No. 10 Q. And you don't know whether you gave Best Buy 11 the authorization to contact you by text? 12 A. If I did, then I -- like I said, I would 13 have opted out right away when I got it. 14 Q. Have you ever looked at the language of the 15 TCPA? 16 A. I have not. 17 Q. Do you know if the word "ringless voicemail" 18 appears in the TCPA anywhere? 19 A. I do not. 20 Q. What's the basis for your belief that a 21 ringless voicemail constitutes a violation of TCPA? 22 MR. STRAUSS: Object to form. You may 23 answer it. 24 A. Can you repeat the question, please? 25 MR. YARDLEY: I cannot, but the court</p> <p style="text-align: right;">Page 102</p>	<p>1 A. Yes. 2 Q. And you allege four in the original 3 complaint; is that correct? 4 A. You asked about the second amended 5 complaint. 6 Q. Excuse me, the second amended complaint. 7 A. Yes. 8 Q. Did any of those four calls name Direct 9 Energy? 10 A. Yes. 11 Q. Which ones? 12 A. November 3rd, 2017. 13 Q. Is it your position that the November 3rd, 14 2017, call came directly from Direct Energy? 15 A. My perception would have been that, yes, 16 that came directly from Direct Energy. 17 Q. And you don't have any perception that any 18 call came directly from Silverman Enterprises, 19 correct? 20 A. There is -- there's really no way that I can 21 ascertain whether it came from Silverman or Direct 22 Energy or TC -- TMC, whatever the third one is called. 23 Q. You don't have any basis for concluding that 24 Silverman Enterprises contacted you like you do for 25 Direct Energy, correct?</p> <p style="text-align: right;">Page 104</p>
<p>1 reporter can. 2 THECOURT REPORTER: "What's the basis for 3 your belief that a ringless voicemail constitutes a 4 violation of TCPA?" 5 MR. YARDLEY: Thank you very much, Ms. Court 6 Reporter. 7 A. I guess I would say that it -- I believe 8 that it's a violation based on the fact that I didn't 9 ask for that to happen and when I tried to answer the 10 phone to tell them to stop calling me, it immediately 11 hung up. 12 Q. (By Mr. Yardley) Those are all factual 13 statements. Do you have any basis to believe that 14 the TCPA prohibits the leaving of ringless 15 voicemails on your phone? 16 MR. STRAUSS: Again I'm going to object, 17 form. You can answer the question. 18 A. I -- I don't know the language in the TCPA 19 to be able to answer that. 20 Q. (By Mr. Yardley) One second. How many 21 calls did you ID in the second amended complaint? 22 A. In the second amendment complaint there, I 23 believe, were four. 24 Q. And when I say calls, you understand I mean 25 ringless voicemails, right?</p> <p style="text-align: right;">Page 103</p>	<p>1 MR. STRAUSS: Object to form. You may 2 answer the question. 3 A. I mainly think that Direct Energy is 4 responsible for this. 5 Q. (By Mr. Yardley) So you don't believe 6 Silverman Enterprises is responsible for this? 7 MR. STRAUSS: Object to form. You may 8 answer it. 9 A. I believe they -- they carry some 10 responsibility, but Direct Energy is the one that 11 reached out to them to hire them to call the -- myself 12 and millions of others. 13 Q. (By Mr. Yardley) And just to make it very 14 clear, you believe that there is a contract between 15 Silverman Enterprises and Direct Energy to leave 16 ringless voicemails on your phone; is that correct? 17 A. That is my understanding. 18 Q. You're familiar with Exhibit 14, correct? 19 That's the -- the list. 20 MR. STRAUSS: I'm not familiar, Counsel, 21 with what you're referring to when you say Exhibit 14. 22 MR. YARDLEY: The IP addresses. 23 MR. STRAUSS: Okay. So -- okay. 24 Q. (By Mr. Yardley) So when did you check the 25 IP addresses listed on deposition Exhibit 14 against</p> <p style="text-align: right;">Page 105</p>

<p>1 your devices?</p> <p>2 A. Exact date -- I can give you probably a</p> <p>3 range. Probably I would say sometime in the late</p> <p>4 spring, summer of '18.</p> <p>5 Q. So you're -- you're testifying that you</p> <p>6 obtained that document from your lawyers and you</p> <p>7 actually went through it and matched it -- and tried</p> <p>8 to match it up with the IP addresses for your devices?</p> <p>9 A. I looked at my devices to see if that IP</p> <p>10 address even existed here, and it didn't.</p> <p>11 Q. How did you do that, electronically? You</p> <p>12 didn't actually look at all the entries on that</p> <p>13 exhibit, did you?</p> <p>14 A. No. The only entry I'm seeing on that</p> <p>15 exhibit is mine.</p> <p>16 Q. And what IP address did you see -- did you</p> <p>17 see, if any?</p> <p>18 A. When I checked?</p> <p>19 MR. STRAUSS: Object to form of the</p> <p>20 question. You can answer.</p> <p>21 Q. (By Mr. Yardley) You may answer.</p> <p>22 A. Are you talking -- are -- are you asking me</p> <p>23 what IP address I saw when I checked?</p> <p>24 Q. No. If you saw any of your devices on that</p> <p>25 list?</p> <p style="text-align: right;">Page 106</p>	<p>1 A. No.</p> <p>2 Q. Does an email exist with all your IP</p> <p>3 addresses sent to your lawyer?</p> <p>4 MR. STRAUSS: I'm going to again advise you</p> <p>5 not to disclose the content of any communication that</p> <p>6 you've had via email or over the phone or in person</p> <p>7 with any of your counsel.</p> <p>8 A. I'm going to choose not to answer that.</p> <p>9 Q. (By Mr. Yardley) Who made the decision to</p> <p>10 add Silverman Enterprises to the second amendment</p> <p>11 complaint?</p> <p>12 A. When -- when drawing up the complaint, I</p> <p>13 relied on the advice of counsel to do that.</p> <p>14 Q. You never made a decision yourself</p> <p>15 personally to add Silverman Enterprises to the</p> <p>16 complaint?</p> <p>17 MR. STRAUSS: I'm going to object to the</p> <p>18 form of the question. You may answer it.</p> <p>19 A. I relied on counsel to do that when we were</p> <p>20 drafting the complaint.</p> <p>21 Q. (By Mr. Yardley) Did you make any decision</p> <p>22 personally as to whether to add Total Marketing</p> <p>23 Concepts to the complaint?</p> <p>24 MR. STRAUSS: Objection. You may answer</p> <p>25 that.</p> <p style="text-align: right;">Page 108</p>
<p>1 A. Oh, no.</p> <p>2 Q. You know all your devices have an IP</p> <p>3 address, correct?</p> <p>4 A. Yes, all of my devices had an IP address.</p> <p>5 Q. And you made a list of those IP addresses,</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. Do you have a -- do you have a copy of that</p> <p>9 list?</p> <p>10 A. I -- I would imagine I sent it to counsel.</p> <p>11 Q. You imagine or you did?</p> <p>12 A. I don't believe I made a document that I</p> <p>13 saved.</p> <p>14 Q. Is there an email where you put all the IP</p> <p>15 addresses for all your devices in an email?</p> <p>16 MR. STRAUSS: I'm going to advise you,</p> <p>17 Mr. Dickson, not to reveal the contents of any email</p> <p>18 that you had with counsel or any communication you</p> <p>19 had. But -- so you can answer the question -- well,</p> <p>20 actually no. I'm going to advise you not to answer</p> <p>21 this question based on attorney/client privilege.</p> <p>22 Q. (By Mr. Yardley) Does any email exist</p> <p>23 outside of the emails to your counsel that has the</p> <p>24 list of the IP addresses of every one of the devices</p> <p>25 you had?</p> <p style="text-align: right;">Page 107</p>	<p>1 A. That's another one where I relied on the</p> <p>2 advice of counsel to -- to add that when drafting.</p> <p>3 Q. (By Mr. Yardley) It's your position that</p> <p>4 Direct Energy is responsible for these ringless</p> <p>5 voicemails being placed on your phone; is that</p> <p>6 correct?</p> <p>7 MR. YARDLEY: I have no further questions.</p> <p>8 MR. MATTHEWS: Sam, do you have anything?</p> <p>9 MR. YARDLEY: Mr. Strauss.</p> <p>10 MR. STRAUSS: Oh, I'm so sorry, guys. I</p> <p>11 thought I heard -- no, I have no -- thank you very</p> <p>12 much, Mr. Dickson.</p> <p>13 MR. MATTHEWS: I have just a few follow-ups</p> <p>14 after that. Not a lot, but just to be sure I have</p> <p>15 some of it right.</p> <p>16 MR. YARDLEY: Make sure nobody else is going</p> <p>17 to ask any questions first.</p> <p>18 MR. MATTHEWS: There's no one else.</p> <p>19 MR. YARDLEY: Okay. That's what I want to</p> <p>20 know. Go ahead.</p> <p>21 FURTHER EXAMINATION</p> <p>22 BY MR. MATTHEWS:</p> <p>23 Q. Okay. Mr. Dickson, so I want to make sure</p> <p>24 that I understood your answers to some of</p> <p>25 Mr. Yardley's questions correctly. You testified</p> <p style="text-align: right;">Page 109</p>

<p>1 earlier you started receiving these voicemails in July 2 of 2017, correct? 3 A. Yes. 4 Q. And then you started talking to Mr. Strauss 5 about a potential suit about them in August of 2017? 6 A. Most likely August, yes, because that would 7 have given it about three or four calls in. 8 Q. And then you started forwarding the 9 voicemails to Mr. Strauss as they came in in September 10 of 2017? 11 A. Yeah, yeah, that would make sense. 12 Q. Okay. And then you received one in 13 November, November the 3rd that mentions the name 14 Direct Energy, correct? 15 A. Yes. 16 Q. And then you send a letter to Direct 17 Energy's general address after that? 18 A. I don't know whether or not -- I don't 19 recall whether or not we did that -- or I did that 20 before or after that November 3rd call. 21 Q. Well, it's unlikely you would have done it 22 before, right? 23 MR. STRAUSS: Object to form. You may 24 answer. 25 A. I guess it depends on what investigative</p> <p style="text-align: right;">Page 110</p>	<p>1 of 2017, correct? 2 A. No, it wouldn't have been -- it would have 3 been April. That has to be a typo. 4 Q. It would have been after you got the 5 November 3rd voicemail? 6 A. Most likely that should have said '18. 7 Q. I see. 8 MR. STRAUSS: You mean April 2018, right? 9 A. Correct. 10 Q. (By Mr. Matthews) A couple of questions 11 about the IP address. I believe I understood your 12 testimony to me to be that what you did to check the 13 IP address of your devices was that you pulled up an 14 Internet search, like Google or something like that 15 and you searched for IP address locate and a website 16 came up. You can't remember the exact name of it, 17 but it's the sort of website that tells you what 18 your IP address is? 19 A. Correct. 20 Q. And the IP address that it showed you was 21 the same for each of those devices that you searched? 22 A. No. 23 Q. No? 24 A. Different on every one. 25 Q. Okay. Did -- did you go into your phone to</p> <p style="text-align: right;">Page 112</p>
<p>1 research was done after I retained counsel. 2 Q. (By Mr. Matthews) Well, here's -- here's 3 what I'm getting at is until that -- you start 4 getting these voicemails; and until November the 5 3rd, you had never gotten one that mentioned the 6 name Direct Energy, right? 7 A. Correct. 8 Q. And you had never called back the number to 9 see who was calling you to tell them to stop, right? 10 A. Correct. 11 MR. STRAUSS: Object to form. You may 12 answer. 13 A. Okay. Not at that point. 14 Q. (By Mr. Matthews) Okay. At that point you 15 were, instead, forwarding it to your counsel and 16 then on November the 3rd you get the voicemail that 17 says the name Direct Energy and then you send the 18 letter to Direct Energy; is that right? 19 A. That timeline makes sense, yes. 20 Q. Okay. Part of the reason I ask that is that 21 the -- the letter that you produced in this lawsuit 22 to -- to Direct Energy has a date on it of April 11th 23 of 2017. And I -- I mean, I make mistakes on the 24 dates on letters sometimes. But I wanted to be sure 25 that you did send a letter to Direct Energy in April</p> <p style="text-align: right;">Page 111</p>	<p>1 check the IP address? 2 A. I did. 3 Q. Okay. And how did you do that? 4 A. Oh, go into the phone? No. I just did the 5 website thing -- 6 Q. Okay. 7 A. -- where -- 8 Q. So you didn't -- 9 A. -- it goes to go my IP.com or something. 10 Q. Got it. You -- you did not go to your WiFi 11 settings on your phone and check the IP address that 12 shows up on your phone? 13 A. No, I did not. 14 Q. Okay. Or on the desktop that you have? 15 A. I did not, no. 16 Q. Or -- or the laptop? 17 A. No. 18 Q. Or -- or the iMac? 19 A. Correct. 20 Q. Okay. 21 MR. MATTHEWS: Thanks very much, 22 Mr. Dickson. I'll pass the witness. 23 MR. STRAUSS: I have no redirect. 24 MR. YARDLEY: I have no further questions. 25 MR. MATTHEWS: Thank you very much,</p> <p style="text-align: right;">Page 113</p>

<p>1 Mr. Dickson. We can go off the record.</p> <p>2 MR. YARDLEY: I do have one objection I'd</p> <p>3 like to put on the record. I object to the use of the</p> <p>4 additional documents either in this -- the additional</p> <p>5 documents produced today were ringless voicemails that</p> <p>6 the witness testified that he found in the last ten</p> <p>7 days. And we would object to the use of those</p> <p>8 ringless voicemails in this lawsuit. And if those</p> <p>9 ringless voicemails are allowed to be added to this</p> <p>10 lawsuit, we would reserve the right to redepose the</p> <p>11 deponent.</p> <p>12 MR. STRAUSS: And just to be clear on this</p> <p>13 regard, you are -- you would want to hold the</p> <p>14 deposition open to cross-examine the deponent</p> <p>15 regarding those additional seven ringless voicemails.</p> <p>16 That would be the topic that you wish to discuss?</p> <p>17 MR. YARDLEY: I'd be seeking to exclude them</p> <p>18 from the lawsuit.</p> <p>19 MR. STRAUSS: Yeah, I understand. But to</p> <p>20 the extent that that does not take place, an</p> <p>21 alternative would be asking to hold in the deposition</p> <p>22 open to prep further about the contents or about the</p> <p>23 seven voice -- ringless voicemails?</p> <p>24 MR. YARDLEY: Yes, because I don't intend to</p> <p>25 ask any questions about those until a ruling is made</p> <p style="text-align: right;">Page 114</p>	<p>1 MR. YARDLEY: Well, my position is that</p> <p>2 they're not relevant to this lawsuit; and if they are</p> <p>3 deemed relevant and deemed to be additional instances</p> <p>4 that plaintiff is going to rely on in seeking damages,</p> <p>5 that we would be allowed to redepose the witness over</p> <p>6 that. But it's my position that they're not.</p> <p>7 MR. STRAUSS: Okay. Thanks. Understood.</p> <p>8 Thank you, Mr. Dickson.</p> <p>9 THE VIDEOGRAPHER: This concludes the</p> <p>10 deposition testimony given today by Matthew Dickson on</p> <p>11 May 14th, 2020. We're going off the record at</p> <p>12 5:12 p.m.</p> <p>13 (Deposition concluded 5:12 p.m.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 116</p>
<p>1 that those ringless voicemails related to this</p> <p>2 complaint because they were not included in either the</p> <p>3 complaint or any of the discovery.</p> <p>4 MR. STRAUSS: Understood. But I just -- I</p> <p>5 just want to confirm the need to hold the deposition</p> <p>6 open for any other topic.</p> <p>7 MR. YARDLEY: Well, any -- anything that</p> <p>8 those seven ringless voicemails may relate to</p> <p>9 including the quality of that.</p> <p>10 MR. STRAUSS: Understood. Thanks.</p> <p>11 MR. MATTHEWS: Yeah, I think -- I mean, my</p> <p>12 thought on that is I wish they had been sent over</p> <p>13 earlier. I appreciate his promptness in sending them</p> <p>14 over once we asked today. We reviewed them very</p> <p>15 quickly, but we haven't had a chance to review them</p> <p>16 against all the other records that have been produced.</p> <p>17 I don't know what path that would lead down. So if</p> <p>18 it -- if all the answers today were sufficient, then</p> <p>19 terrific. And if -- but if comparing those records to</p> <p>20 others that have been produced in the lawsuit leads to</p> <p>21 additional questions, we'll follow up with you.</p> <p>22 MR. STRAUSS: Okay. And just to make sure,</p> <p>23 Mr. Matthews, what you're saying is basically you wish</p> <p>24 to hold this deposition open as it relates to those</p> <p>25 seven ringless voicemails that were produced today?</p> <p style="text-align: right;">Page 115</p>	<p>1 CHANGES AND SIGNATURE</p> <p>2 WITNESS NAME: MATTHEW DICKSON</p> <p>3 DATE OF DEPOSITION: MAY 14, 2020</p> <p>4 PAGE LINE CHANGE REASON</p> <p>5 _____</p> <p>6 _____</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p> <p>23 _____</p> <p>24 _____</p> <p>25 _____</p> <p style="text-align: right;">Page 117</p>

<p>1 2 I, _____, do hereby certify that I 3 have read the foregoing pages, and that the same is a 4 correct transcription of the answers given by me to the 5 questions therein propounded, except for the corrections 6 or changes in form or substance, if any, noted in the 7 attached Errata Sheet.</p> <p>8 9 _____ 10 WITNESS SIGNATURE DATE 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 118</p>	<p>1 related to, nor employed by any of the parties in the 2 action in which this proceeding was taken, and further 3 that I am not financially or otherwise interested in the 4 outcome of this action. 5 Certified to by me on this 18th day of 6 May, 2020.</p> <p>7 <u>Jill M. Vaughan</u> Jill M. Vaughan, CSR, KPR 8 CSR No. 6192 Expiration date: 12-31-21 9 Veritext Legal Solutions Veritext Registration No. 571 10 300 Throckmorton Street, Suite 1600 Fort Worth, TX 76102 11 (817) 336-3042 (800) 336-4000 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 120</p>
<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE NORTHERN DISTRICT OF OHIO</p> <p>3 MATTHEW DICKSON, on behalf of) himself and others similarly) 4 situated) Plaintiff) CAUSE No. 5:18-cv-182 5) VS.) 6) DIRECT ENERGY, LP, TOTAL) 7 MARKETING CONCEPTS, LLC,) and SILVERMAN ENTERPRISES, LLC) 8 Defendant) 9)</p> <p>10 REPORTER'S CERTIFICATION FOR THE 11 ORAL VIDEO ZOOM DEPOSITION OF MATTHEW DICKSON 12 MAY 14, 2020 13 I, Jill M. Vaughan, Certified Shorthand Reporter in 14 and for the State of Texas, hereby certify pursuant to 15 the Federal Rules and/or agreement of the parties present 16 to the following: 17 That the witness, MATTHEW DICKSON, was duly sworn by 18 the officer and that the transcript of the oral 19 deposition is a true record of the testimony given by the 20 witness; 21 That the deposition transcript was duly submitted on 22 _____ to the witness or to the attorney for 23 the witness for examination, signature, and return to 24 Veritext by _____. 25 I further certify that I am neither counsel for,</p> <p style="text-align: right;">Page 119</p>	<p>1 sam@turkestrauss.com 2 May 18, 2020 3 RE: Matthew Dickson v. Direct Energy Services, LLC 4 DEPOSITION OF: Matthew Dickson (# 4107075) 5 The above-referenced witness transcript is 6 available for read and sign. 7 Within the applicable timeframe, the witness 8 should read the testimony to verify its accuracy. If 9 there are any changes, the witness should note those 10 on the attached Errata Sheet. 11 The witness should sign and notarize the 12 attached Errata pages and return to Veritext at 13 errata-tx@veritext.com. 14 According to applicable rules or agreements, if 15 the witness fails to do so within the time allotted, 16 a certified copy of the transcript may be used as if 17 signed. 18 Yours, 19 Veritext Legal Solutions 20 21 22 23 24 25</p> <p style="text-align: right;">Page 121</p>